

MICROCOPY

892

ROLL

109

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

Microfilm Publication M892

RECORDS OF THE UNITED STATES

NUERNBERG WAR CRIMES TRIALS

UNITED STATES OF AMERICA v. CARL KRAUCH ET AL. (CASE VI)

AUGUST 14, 1947-JULY 30, 1948

Roll 109

Other Items

Official Court Files, Vols. 49 and 50



THE NATIONAL ARCHIVES
NATIONAL ARCHIVES AND RECORDS SERVICE
GENERAL SERVICES ADMINISTRATION

WASHINGTON: 1976

INTRODUCTION

On the 113 rolls of this microfilm publication are reproduced the records of Case VI, *United States of America v. Carl Krauch et al.* (I. G. Farben Case), 1 of the 12 trials of war criminals conducted by the U.S. Government from 1946 to 1949 at Nuernberg subsequent to the International Military Tribunal (IMT) held in the same city. These records consist of German- and English-language versions of official transcripts of court proceedings, prosecution and defense briefs and statements, and defendants' final pleas as well as prosecution and defense exhibits and document books in one language or the other. Also included are minute books, the official court file, order and judgment books, clemency petitions, and finding aids to the documents.

The transcripts of this trial, assembled in 2 sets of 43 bound volumes (1 set in German and 1 in English), are the recorded daily trial proceedings. Prosecution statements and briefs are also in both languages but unbound, as are the final pleas of the defendants delivered by counsel or defendants and submitted by the attorneys to the court. Unbound prosecution exhibits, numbered 1-2270 and 2300-2354, are essentially those documents from various Nuernberg record series, particularly the NI (Nuernberg Industrialist) Series, and other sources offered in evidence by the prosecution in this case. Defense exhibits, also unbound, are predominantly affidavits by various persons. They are arranged by name of defendant and thereunder numerically, along with two groups of exhibits submitted in the general interest of all defendants. Both prosecution and defense document books consist of full or partial translations of exhibits into English. Loosely bound in folders, they provide an indication of the order in which the exhibits were presented before the tribunal.

Minute books, in two bound volumes, summarize the transcripts. The official court file, in nine bound volumes, includes the progress docket, the indictment, and amended indictment and the service thereof; applications for and appointments of defense counsel and defense witnesses and prosecution comments thereto; defendants' application for documents; motions and reports; uniform rules of procedures; and appendixes. The order and judgment books, in two bound volumes, represent the signed orders, judgments, and opinions of the tribunal as well as sentences and commitment papers. Defendants' clemency petitions, in three bound volumes, were directed to the military governor, the Judge Advocate General, and the U.S. District Court for the District of Columbia. The finding aids summarize transcripts, exhibits, and the official court file.

Case VI was heard by U.S. Military Tribunal VI from August 14, 1947, to July 30, 1948. Along with records of other Nuernberg

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

and Far East war crimes trials, the records of this case are part of the National Archives Collection of World War II War Crimes Records, Record Group 238.

The I. G. Farben Case was 1 of 12 separate proceedings held before several U.S. Military Tribunals at Nuernberg in the U.S. Zone of Occupation in Germany against officials or citizens of the Third Reich, as follows:

<u>Case No.</u>	<u>United States v.</u>	<u>Popular Name</u>	<u>No. of Defendants</u>
1	<i>Karl Brandt et al.</i>	Medical Case	23
2	<i>Erhard Milch</i>	Milch Case (Luftwaffe)	1
3	<i>Josef Altstoetter et al.</i>	Justice Case	16
4	<i>Oswald Pohl et al.</i>	Pohl Case (SS)	18
5	<i>Friedrich Flick et al.</i>	Flick Case (Industrialist)	6
6	<i>Carl Krauch et al.</i>	I. G. Farben Case (Industrialist)	24
7	<i>Wilhelm List et al.</i>	Hostage Case	12
8	<i>Ulrich Greifelt et al.</i>	RuSHA Case (SS)	14
9	<i>Otto Ohlendorf et al.</i>	Einsatzgruppen Case (SS)	24
10	<i>Alfried Krupp et al.</i>	Krupp Case (Industrialist)	12
11	<i>Ernst von Weizsaecker et al.</i>	Ministries Case	21
12	<i>Wilhelm von Leeb et al.</i>	High Command Case	14

Authority for the proceedings of the IMT against the major Nazi war criminals derived from the Declaration on German Atrocities (Moscow Declaration) released November 1, 1943; Executive Order 9547 of May 2, 1945; the London Agreement of August 8, 1945; the Berlin Protocol of October 6, 1945; and the IMT Charter.

Authority for the 12 subsequent cases stemmed mainly from Control Council Law 10 of December 20, 1945, and was reinforced by Executive Order 9679 of January 16, 1946; U.S. Military Government Ordinances 7 and 11 of October 18, 1946, and February 17, 1947, respectively; and U.S. Forces, European Theater General Order 301 of October 24, 1946. Procedures applied by U.S. Military Tribunals in the subsequent proceedings were patterned after those of the IMT and further developed in the 12 cases, which required over 1,200 days of court sessions and generated more than 330,000 transcript pages.

Formation of the I. G. Farben Combine was a stage in the evolution of the German chemical industry, which for many years led the world in the development, production, and marketing of organic dyestuffs, pharmaceuticals, and synthetic chemicals. To control the excesses of competition, six of the largest chemical firms, including the Badische Anilin & Soda Fabrik, combined to form the Interessengemeinschaft (Combine of Interests, or Trust) of the German Dyestuffs Industry in 1904 and agreed to pool technological and financial resources and markets. The two remaining chemical firms of note entered the combine in 1916. In 1925 the Badische Anilin & Soda Fabrik, largest of the firms and already the majority shareholder in two of the other seven companies, led in reorganizing the industry to meet the changed circumstances of competition in the post-World War markets by changing its name to the I. G. Farbenindustrie Aktiengesellschaft, moving its home office from Ludwigshafen to Frankfurt, and merging with the remaining five firms.

Farben maintained its influence over both the domestic and foreign markets for chemical products. In the first instance the German explosives industry, dependent on Farben for synthetically produced nitrates, soon became subsidiaries of Farben. Of particular interest to the prosecution in this case were the various agreements Farben made with American companies for the exchange of information and patents and the licensing of chemical discoveries for foreign production. Among the trading companies organized to facilitate these agreements was the General Anilin and Film Corp., which specialized in photographic processes. The prosecution charged that Farben used these connections to retard the "Arsenal of Democracy" by passing on information received to the German Government and providing nothing in return, contrary to the spirit and letter of the agreements.

Farben was governed by an Aufsichtsrat (Supervisory Board of Directors) and a Vorstand (Managing Board of Directors). The Aufsichtsrat, responsible for the general direction of the firm, was chaired by defendant Krauch from 1940. The Vorstand actually controlled the day-to-day business and operations of Farben. Defendant Schmitz became chairman of the Vorstand in 1935, and 18 of the other 22 original defendants were members of the Vorstand and its component committees.

Transcripts of the I. G. Farben Case include the indictment of the following 24 persons:

Otto Ambros: Member of the Vorstand of Farben; Chief of Chemical Warfare Committee of the Ministry of Armaments and War Production; production chief for Buna and poison gas; manager of Auschwitz, Schkopau, Ludwigshafen, Oppau, Gendorf, Dyhernfurth, and Falkenhagen plants; and Wehrwirtschaftsfuehrer.

Max Brueggemann: Member and Secretary of the Vorstand of Farben; member of the legal committee; Deputy Plant Leader of the Leverkusen Plant; Deputy Chief of the Sales Combine for Pharmaceuticals; and director of the legal, patent, and personnel departments of the Works Combine, Lower Rhine.

Ernst Buerger: Member of the Vorstand of Farben; Chief of Works Combine, Central Germany; Plant Leader at the Bitterfeld and Wolfen-Farben plants; and production chief for light metals, dyestuffs, organic intermediates, plastics, and nitrogen at these plants.

Heinrich Bueteftisch: Member of the Vorstand of Farben; manager of Leuna plants; production chief for gasoline, methanol, and chlorine electrolysis production at Auschwitz and Moosbierbaum; Wehrwirtschaftsfuehrer; member of the Himmler Freundeskreis (circle of friends of Himmler); and SS Obersturmbannfuehrer (Lieutenant Colonel).

Walter Duerrfeld: Director and construction manager of the Auschwitz plant of Farben, director and construction manager of the Monowitz Concentration Camp, and Chief Engineer at the Leuna plant.

Fritz Gajewski: Member of the Central Committee of the Vorstand of Farben, Chief of Sparte III (Division III) in charge of production of photographic materials and artificial fibers, manager of "Agfa" plants, and Wehrwirtschaftsfuehrer.

Heinrich Gattineau: Chief of the Political-Economic Policy Department, "WIPO," of Farben's Berlin N.W. 7 office; member of Southeast Europe Committee; and director of A.G. Dynamit Nobel, Pressburg, Czechoslovakia.

Paul Haefliger: Member of the Vorstand of Farben; member of the Commercial Committee; and Chief, Metals Departments, Sales Combine for Chemicals.

Erich von der Heyde: Member of the Political-Economic Policy Department of Farben's Berlin N.W. 7 office, Deputy to the Chief of Intelligence Agents, SS Hauptsturmfuehrer, and member of the WI-RUE-AMT (Military Economics and Armaments Office) of the Oberkommando der Wehrmacht (OKW) (High Command of the Armed Forces).

Heinrich Hoerlein: Member of the Central Committee of the Vorstand of Farben; chief of chemical research and development of vaccines, sera, pharmaceuticals, and poison gas; and manager of the Elberfeld Plant.

Max Ilgner: Member of the Vorstand of Farben; Chief of Farben's Berlin N.W. 7 office directing intelligence, espionage, and propaganda activities; member of the Commercial Committee; and Wehrwirtschaftsfuehrer.

Friedrich Jaehne: Member of the Vorstand of Farben; chief engineer in charge of construction and physical plant development; Chairman of the Engineering Committee; and Deputy Chief, Works Combine, Main Valley.

August von Knieriem: Member of the Central Committee of the Vorstand of Farben; Chief Counsel of Farben; and Chairman, Legal and Patent Committees.

Carl Krauch: Chairman of the Aufsichtsrat of Farben and Generalbevollmaechtigter fuer Sonderfragen der Chemischen Erzeugung (General Plenipotentiary for Special Questions of Chemical Production) on Goering's staff in the Office of the 4-Year Plan.

Hans Kuehne: Member of the Vorstand of Farben; Chief of the Works Combine, Lower Rhine; Plant Leader at Leverkusen, Elberfeld, Uerdingen, and Dormagen plants; production chief for inorganics, organic intermediates, dyestuffs, and pharmaceuticals at these plants; and Chief of the Inorganics Committee.

Hans Kugler: Member of the Commercial Committee of Farben; Chief of the Sales Department Dyestuffs for Hungary, Rumania, Yugoslavia, Greece, Bulgaria, Turkey, Czechoslovakia, and Austria; and Public Commissar for the Falkenau and Aussig plants in Czechoslovakia.

Carl Lautenschlaeger: Member of the Vorstand of Farben; Chief of Works Combine, Main Valley; Plant Leader at the Hoechst, Griesheim, Mainkur, Gersthofen, Offenbach, Eystrup, Marburg, and Neuhausen plants; and production chief for nitrogen, inorganics, organic intermediates, solvents and plastics, dyestuffs, and pharmaceuticals at these plants.

Wilhelm Mann: Member of the Vorstand of Farben, member of the Commercial Committee, Chief of the Sales Combine for Pharmaceuticals, and member of the SA.

Fritz ter Meer: Member of the Central Committee of the Vorstand of Farben; Chief of the Technical Committee of the Vorstand that planned and directed all of Farben's production; Chief of Sparte II in charge of production of Buna, poison gas, dyestuffs, chemicals, metals, and pharmaceuticals; and Wehrwirtschaftsfuehrer.

Heinrich Oster: Member of the Vorstand of Farben, member of the Commercial Committee, and manager of the Nitrogen Syndicate.

Hermann Schmitz: Chairman of the Vorstand of Farben, member of the Reichstag, and Director of the Bank of International Settlements.

Christian Schneider: Member of the Central Committee of the Vorstand of Farben; Chief of Sparte I in charge of production of nitrogen, gasoline, diesel and lubricating oils, methanol, and organic chemicals; Chief of Central Personnel Department, directing the treatment of labor at Farben plants; Wehrwirtschaftsfuehrer; Hauptabwehrbeauftragter (Chief of Intelligence Agents); Hauptbetriebsfuehrer (Chief of Plant Leaders); and supporting member of the Schutzstaffeln (SS) of the NSDAP.

Georg von Schnitzler: Member of the Central Committee of the Vorstand of Farben, Chief of the Commercial Committee of the Vorstand that planned and directed Farben's domestic and foreign sales and commercial activities, Wehrwirtschaftsfuehrer (Military Economy Leader), and Hauptsturmfuehrer (Captain) in the Sturmabteilungen (SA) of the Nazi Party (NSDAP).

Carl Wurster: Member of the Vorstand of Farben; Chief of the Works Combine, Upper Rhine; Plant Leader at Ludwigshafen and Oppau plants; production chief for inorganic chemicals; and Wehrwirtschaftsfuehrer.

The prosecution charged these 24 individual staff members of the firm with various crimes, including the planning of aggressive war through an alliance with the Nazi Party and synchronization of Farben's activities with the military planning of the German High Command by participation in the preparation of the 4-Year Plan, directing German economic mobilization for war, and aiding in equipping the Nazi military machines.¹ The defendants also were charged with carrying out espionage and intelligence activities in foreign countries and profiting from these activities. They participated in plunder and spoliation of Austria, Czechoslovakia, Poland, Norway, France, and the Soviet Union as part of a systematic economic exploitation of these countries. The prosecution also charged mass murder and the enslavement of many thousands of persons particularly in Farben plants at the Auschwitz and Monowitz concentration camps and the use of poison gas manufactured by the firm in the extermination

¹The trial of defendant Brueggemann was discontinued early during the proceedings because he was unable to stand trial on account of ill health.

of millions of men, women, and children. Medical experiments were conducted by Farben on enslaved persons without their consent to test the effects of deadly gases, vaccines, and related products. The defendants were charged, furthermore, with a common plan and conspiracy to commit crimes against the peace, war crimes, and crimes against humanity. Three defendants were accused of membership in a criminal organization, the SS. All of these charges were set forth in an indictment consisting of five counts.

The defense objected to the charges by claiming that regulations were so stringent and far reaching in Nazi Germany that private individuals had to cooperate or face punishment, including death. The defense claimed further that many of the individual documents produced by the prosecution were originally intended as "window dressing" or "howling with the wolves" in order to avoid such punishment.

The tribunal agreed with the defense in its judgment that none of the defendants were guilty of Count I, planning, preparation, initiation, and waging wars of aggression; or Count V, common plans and conspiracy to commit crimes against the peace and humanity and war crimes.

The tribunal also dismissed particulars of Count II concerning plunder and exploitation against Austria and Czechoslovakia. Eight defendants (Schmitz, von Schnitzler, ter Meer, Buergin, Haeffliger, Ilgner, Oster, and Kugler) were found guilty on the remainder of Count II, while 15 were acquitted. On Count III (slavery and mass murder), Ambros, Bueteftisch, Duerrfeld, Krauch, and ter Meer were judged guilty. Schneider, Bueteftisch, and von der Heyde also were charged with Count IV, membership in a criminal organization, but were acquitted.

The tribunal acquitted Gajewski, Gattineau, von der Heyde, Hoerlein, von Knieriem, Kuehne, Lautenschlaeger, Mann, Schneider, and Wurster. The remaining 13 defendants were given prison terms as follows:

<u>Name</u>	<u>Length of Prison Term (years)</u>
Ambros	8
Buergin	2
Bueteftisch	6
Duerrfeld	8
Haeffliger	2
Ilgner	3
Jaehne	1 1/2
Krauch	6
Kugler	1 1/2
Oster	2
Schmitz	4
von Schnitzler	5
ter Meer	7

All defendants were credited with time already spent in custody.

In addition to the indictments, judgments, and sentences, the transcripts also contain the arraignment and plea of each defendant (all pleaded not guilty) and opening statements of both defense and prosecution.

The English-language transcript volumes are arranged numerically, 1-43, and the pagination is continuous, 1-15834 (page 4710 is followed by pages 4710(1)-4710(285)). The German-language transcript volumes are numbered 1a-43a and paginated 1-16224 (14a and 15a are in one volume). The letters at the top of each page indicate morning, afternoon, or evening sessions. The letter "C" designates commission hearings (to save court time and to avoid assembling hundreds of witnesses at Nuernberg, in most of the cases one or more commissions took testimony and received documentary evidence for consideration by the tribunals). Two commission hearings are included in the transcripts: that for February 7, 1948, is on pages 6957-6979 of volume 20 in the English-language transcript, while that for May 7, 1948, is on pages 14775a-14776 of volume 40a in the German-language transcript. In addition, the prosecution made one motion of its own and, with the defense, six joint motions to correct the English-language transcripts. Lists of the types of errors, their location, and the prescribed corrections are in several volumes of the transcripts as follows:

- First Motion of the Prosecution, volume 1
- First Joint Motion, volume 3
- Second Joint Motion, volume 14
- Third Joint Motion, volume 24
- Fourth Joint Motion, volume 29
- Fifth Joint Motion, volume 34
- Sixth Joint Motion, volume 40

The prosecution offered 2,525 prosecution exhibits numbered 1-2270 and 2300-2354. Missing numbers were not assigned due to the difficulties of introducing exhibits before the commission and the tribunal simultaneously. Exhibits 1835-1838 were loaned to an agency of the Department of Justice for use in a separate matter, and apparently No. 1835 was never returned. Exhibits drew on a variety of sources, such as reports and directives as well as affidavits and interrogations of various individuals. Maps and photographs depicting events and places mentioned in the exhibits are among the prosecution resources, as are publications, correspondence, and many other types of records.

The first item in the arrangement of prosecution exhibits is usually a certificate giving the document number, a short description of the exhibits, and a statement on the location of the original document or copy of the exhibit. The certificate is followed by the actual prosecution exhibit (most are photostats,

but a few are mimeographed articles with an occasional carbon of the original). The few original documents are often affidavits of witnesses or defendants, but also ledgers and correspondence, such as:

<u>Exhibit No.</u>	<u>Doc. No.</u>	<u>Exhibit No.</u>	<u>Doc. No.</u>
322	NI 5140	1558	NI 11411
918	NI 6647	1691	NI 12511
1294	NI 14434	1833	NI 12789
1422	NI 11086	1886	NI 14228
1480	NI 11092	2313	NI 13566
1811	NI 11144		

In rare cases an exhibit is followed by a translation; in others there is no certificate. Several of the exhibits are of poor legibility and a few pages are illegible.

Other than affidavits, the defense exhibits consist of newspaper clippings, reports, personnel records, Reichgesetzblatt excerpts, photographs, and other items. The 4,257 exhibits for the 23 defendants are arranged by name of defendant and thereunder by exhibit number. Individual exhibits are preceded by a certificate wherever available. Two sets of exhibits for all the defendants are included.

Translations in each of the prosecution document books are preceded by an index listing document numbers, biased descriptions, and page numbers of each translation. These indexes often indicate the order in which the prosecution exhibits were presented in court. Defense document books are similarly arranged. Each book is preceded by an index giving document number, description, and page number for every exhibit. Corresponding exhibit numbers generally are not provided. There are several unindexed supplements to numbered document books. Defense statements, briefs, pleas, and prosecution briefs are arranged alphabetically by defendant's surname. Pagination is consecutive, yet there are many pages where an "a" or "b" is added to the numeral.

At the beginning of roll 1 key documents are filmed from which Tribunal VI derived its jurisdiction: the Moscow Declaration, U.S. Executive Orders 9547 and 9679, the London Agreement, the Berlin Protocol, the IMT Charter, Control Council Law 10, U.S. Military Government Ordinances 7 and 11, and U.S. Forces, European Theater General Order 301. Following these documents of authorization is a list of the names and functions of members of the tribunal and counsels. These are followed by the transcript covers giving such information as name and number of case, volume numbers, language, page numbers, and inclusive dates. They are followed by the minute book, consisting of summaries of the daily proceedings, thus providing an additional finding aid for the transcripts. Exhibits are listed in an index that notes the

type, number, and name of exhibit; corresponding document book, number, and page; a short description of the exhibit; and the date when it was offered in court. The official court file is summarized by the progress docket, which is preceded by a list of witnesses.

Not filmed were records duplicated elsewhere in this microfilm publication, such as prosecution and defense document books in the German language that are largely duplications of the English-language document books.

The records of the I. G. Farben Case are closely related to other microfilmed records in Record Group 238, specifically prosecution exhibits submitted to the IMT, T988; NI (Nuernberg Industrialist) Series, T301; NM (Nuernberg Miscellaneous) Series, M-936; NOKW (Nuernberg Armed Forces High Command) Series, T1119; NG (Nuernberg Government) Series, T1139; NP (Nuernberg Propaganda) Series, M942; WA (undetermined) Series, M946; and records of the Brandt case, M887; the Milch Case, M888; the Altstoetter case, M889; the Pohl Case, M890; the Flick Case, M891; the List case, M893; the Greifelt case, M894; and the Ohlendorf case, M895. In addition, the record of the IMT at Nuernberg has been published in the 42-volume *Trial of the Major War Criminals Before the International Military Tribunal* (Nuernberg, 1947). Excerpts from the subsequent proceedings have been published in 15 volumes as *Trials of War Criminals Before the Nuernberg Military Tribunal Under Control Council Law No. 10* (Washington). The Audiovisual Archives Division of the National Archives and Records Service has custody of motion pictures and photographs of all 13 trials and sound recordings of the IMT proceedings.

Martin K. Williams arranged the records and, in collaboration with John Mendelsohn, wrote this introduction.

OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NURNBERG

**CASE No. 6 TRIBUNAL VI
U.S. vs CARL KRAUCH et al
VOLUME 49**

OFFICIAL COURT FILE

Doc 282-389

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

Roll 109

Target 1

Official Court File

Volume 49

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NURNBERG

CASE No. 6 TRIBUNAL VI
U.S. vs CARL KRAUCH et al
VOLUME 49

OFFICIAL COURT FILE

DAK 252-389

MILITARY TRIBUNALS

Nuremberg, Germany

UNITED STATES OF AMERICA

vs.

Karl Drach et al.

Defendant's Application for Document

To: The Secretary General, Military Tribunals:

I, Dr. Karl Hoffmann

attorney for

Dr. Otto Isakos

(Name of Defendant)

I hereby request that the Tribunal require the production of the following documents to be used for the defense:

Identification of Documents:

Affidavit Dr. Struss re poison gas

Last known location of documents and information that may aid in its location

With the Prosecution

The document requested herein will be used to prove the following facts:

Poison gas situation in Germany during the war.

*Summary of the prosecution of 6 Feb 1948:
Motion is so ambiguous we cannot determine what applicant means. But objection arguments for if not in evidence, no right to search records.*

These facts are relevant to the defense for the following reasons:

Struss' former affidavits are to be corrected. See transcript of

9 Oct 47, 1130 - 1630 hours (page 1911, German text). There Struss mentioned

the affidavit.

Nuremberg 26 Jan 1948

(Date)

(s) Hoffmann

Signature of Defendant's Counsel

Decision of Tribunal

Approved

11 Feb 1948

Wendell B. Harris
Presiding Judge.

PROSECUTION AND
DEFENSE NOTIFIED

11 Feb 48
293

*Order written
18 Jan*

MILITÄR GERICHTSHOF

Ernberg, Deutschland

262 @

VERBUNDENE SACHEN VON MERA

Gegen

Karl Kranck u.a.

Antrag des Angeklagten auf Herbeischaffung eines Dokuments
in den Generalsekretär des Militärgerichtshofs:

Ich, Dr. Karl Heffmann Verteidiger für Dr. Otto Andres
(Hans d. Angeklagten)

ersuche hiermit den Gerichtshof, die Herbeischaffung des folgenden
Dokuments für Zwecke der Verteidigung anzuordnen:

Kennzeichnung des Dokuments:

Affidavit Dr. Struss betr. Kampfstoffe

Letztbekannter Verwahrungsort des Dokuments und Angaben
die zur Auffindung dienen können:

bei der Prosecution

Das hier angeforderte Dokument soll zum Beweiz folgender Taten
dienen:

Kampfstofflage in Deutschland während des Krieges

Answer of the prosecution of 6 February 1948.

Motion is so ambiguous one cannot determine what applicant means. But
objection anyway, for if not in evidence, no right to such matters.

Diese Tatsachen sind aus folgenden Gründen erheblich: RA-SPRECHER.
Verteidigung:

1. Das ältere Affidavit von Struss sollen korrigiert werden.

siehe Protokoll vom 9.10.47, 13 Uhr 30 bis 16 Uhr 30 (S. 1911

deutscher Text). Das Affidavit ist dort von Struss zitiert.

Ernberg, 26.1.1948.

(Datum)

Unterschrift des Verteidigers

Entschluss des Gerichtshofs

Vorsitzender Richter

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

KRAUSE and Others (Case VI)ANSWER TO APPLICATION FOR DOCUMENT ON BEHALF OF THE DEFENDANT
AMEROS

TO: The Secretary General, Military Tribunals (Room 281)

1. Answer is made to the application by Dr. Hoffmann, counsel for the defendant AMEROS, dated 26 January 1948, in which Dr. Hoffmann requests "Dr. Savelsberg's treatise 'The over-costs of the Auschwitz plant'" and states that this document is "with the prosecution".

2. Objection is made to this application. The prosecution knows of no contemporaneous document of the Nazi era in the nature of a treatise by Dr. Savelsberg concerning Auschwitz. We presume that Dr. Hoffmann refers to either affidavits or interrogations which the prosecution has obtained from Dr. Savelsberg. Savelsberg lives in Germany, is a former I.G. Farben employee, and is naturally available to the defense for interrogation on any subject whatsoever. It is apparent that Dr. Hoffmann learned that the prosecution had obtained information from Dr. Savelsberg in its own investigations after defense counsel had approached Dr. Savelsberg.

3. The prosecution has no objection to the defense obtaining affidavits on its own initiative from Dr. Savelsberg or anyone else who has relevant information. But we think it entirely improper for either the prosecution or the defense to attempt to require the production of any declarations, statements or interrogations obtained by the other party. These normally fall within the classification of confidential material which each of the parties obtains in the course of its preliminary preparations in order to perform its respective functions before the Tribunal. It would not assist the pursuit of truth in any proceeding if the adverse party could have at its disposal the declarations of a

prospective witness (in whatever form) made to the other party before he assumes the responsibility for calling the witness to the stand or introducing an affidavit by the witness. The fact that the witness may have made declarations under oath or otherwise to the adverse party which may be produced if the witness perjures himself is one of the most important aids to the maintenance of truth in testimony before these Tribunals.

4. If Dr. Hoffmann is requesting any contemporaneous document produced by Dr. Savelsberg during the Nazi era (as contrasted from a declaration made to the prosecution), we of course have no objection.

By: *D. A. Sprecher*
D. A. SPEECHER
Chief, FARROW TRIAL TEAM

~~CONFIDENTIAL~~ 9 February 1948
Date

For: TELFORD TAYLOR
Brig. Gen. USA
Chief of Counsel

MILITARY TRIBUNAL

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

Karl Krauch et al.

Defendant's Application for Document

To: The Secretary General, Military Tribunal:

I, Dr. Karl Hoffmann

attorney for

Dr. Otto Ambros

(Name of Defendant)

heretby request that the Tribunal require the production of the following documents
to be used for the defense:

Identification of Documents:

Dr. Gabelsberg's treatise "The over-costs of the Auschwitz plant".

Last known location of Dagmar and information that may aid in its location
With the Prosecution.

The document requested herein will be used to prove the following facts:
In the special situation of the IG works Auschwitz

These facts are relevant to the defense for the following reasons:

The document is relevant for the motives leading to the selection of the
Auschwitz site.

Nurnberg 26 Jan 1948

(Date)

(s) Hoffmann

Signature of Defendant's Counsel

Decision of Tribunal

Denied - Insufficient showing as to
nature and availability of document

12 July 1948 -

Christ B. Glade
President Judge

PROSECUTION AND DEFENSE NOTIFIED

13 F & H8
1297

268 (3)
FILED 28 Jan 48
SECRETARY GENERAL
for Military Tribunal
Defense Counsel

MILITÄRISCHES GERICHTSGEBIET

Nürnberg, Deutschland

VEREINIGTE STÄATEN VON AMERIKA

Gegen

Karl French u.a.

Intrag des Angeklagten auf Herbeischaffung eines Dokumentes

An den Generalsekretär des Militärgerichtshofs:

Ich, Dr. Karl Haffmann Verteidiger für Dr. Otto Ambros
(Hans Langkington)

ersuche hiermit den Gerichtshof, die Herbeischaffung des folgenden
Dokumentes für Zwecke der Verteidigung anzuordnen:

Kennzeichnung des Dokumentes:

Ansarbeitung von Dr. Savelberg "Die Uebertrennung des Werkes Auschwitz".

Letztbekannter Verwahrungsort des Dokumentes und Angaben,
die zur Auffindung dienen könnten:

bei der Prosecution

Das hier angeforderte Dokument soll aus Berlin folgender T. t-
schen stammen:

für die besondere Situation des I. G. - Werkes Auschwitz.

Diese Tatsachen sind aus folgenden Gründen erheblich für die
Verteidigung:

Das Dokument ist erheblich für die Gründe zur Standortwahl Auschwitz.

Nürnberg, den 26.1.1948.

(Druck)


Unterschrift des Verteidigers

Entschluss des Gerichtshofs

Vorsitzender Richter

FILED 28 Jan 48
Secretary General
Defence Center

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
28 JANUARY 1948

THE UNITED STATES OF AMERICA :
- vs. - :
CARL KRAUCH, et al., : Case No. 6
Defendants. :

ORDER

On 25 September 1947, one THOMAS ALLEGORETTI made application for approval of appointment as counsel for the Defendant Georg von Schnitzler. Promptly thereafter said applicant was advised in person by the Tribunal in chambers that said application did not comply in form with the rules of the Tribunal; that it would be necessary for said applicant to establish to the satisfaction of the Tribunal that he was a member of the bar in good standing and that he was situated to assume and discharge the responsibilities of counsel in this cause.

Said THOMAS ALLEGORETTI having wholly failed to amend his petition, furnish evidence of his professional standing and make a showing that he could and would if appointed be in position to represent said defendant, the Tribunal now, as of this date, dismisses said application.

Curtis G. Sharr
CURTIS G. SHARR,
Presiding.

Dated this 28th day of January 1948

DEFENSE NOTIFIED
28 Jan 1948 JDA

PROSECUTION NOTIFIED

HEADQUARTERS
EUROPEAN COMMAND

Mr. Tolson
264
APO 757
JAN 12 1948

AG 312.1 CPA

SUBJECT: Request for Information from Dr Walter Siemers, Counsel
for the Defense, US Military Tribunal, Nurnberg.

TO : Office Chief of Counsel (US)
APO 696-A, U.S. Army
Attention: Brigadier General Telford Taylor

1. The attached copy of a letter, with English translation, from
Dr Walter Siemers, Counsel for the Defense at the US Military Tribunal,
Nurnberg, is forwarded as a matter of interest to and for any action
deemed necessary by your office.

2. Mr Thomas Allegetti holds no status in this command. He was
directed to leave the US Occupied Zone on decision of the Commander-in-
Chief and his departure was effected.

BY COMMAND OF GENERAL CLAY:

FRANKFURT: 6161

1 Incl: Ltr fr Dr Siemers
with English
translation


PETER GALZA
Lt Col AGO
Assistant Adjutant General



Nuremberg 23 Dec 47
Peyerstr 44 3/8

Dr. Walter Bismers
Attorney-at-law in Hamburg

at present Counselor for the Defense
at the US Military Tribunal, Nuremberg

General Bowling
European Exchange Service

Bad Nauheim

Dear General Bowling,

I understand that Mr Thomas Allegretti has been employed by your organization in the capacity of a Legal Officer (Legal Adviser). Mr Allegretti, with my consent, had applied for permission to act as Counselor for the defense in the I.G. Farben trial before the American Military Tribunal in Nuremberg where I am defending Dr Georg von Schaetler. This was on the 26 September 47. As Mr Allegretti informed me, he was, on the 27 September 1947, ordered to leave Europe while in your organization and subsequently, indeed compelled to comply with this order and to return to U.S. where he is at present residing.

The American Military Tribunal has not yet taken any decision in reference to the application and, as reason for the delay, explained to me that Mr Allegretti had - according to newspaper reports - been served with an expulsion order as he had shown himself unreliable while in the employ of your organization or on account of activities justifying the expulsion order. In reply to this I pointed out that according to what Mr Allegretti told me he had not had any disagreement with Military Government nor had he been guilty of any irregularities while employed with your organization. The American Military Tribunal has suggested that I should clarify the matter.

Having been notified of your willingness to furnish me with particulars I should be much obliged if you would explain the matter to me. I am particularly interested in the following points:

- a) What is the expulsion order based upon?
- b) Has Mr Allegretti been in disagreement with Military Government or has he been guilty of any questionable activities while employed with your organization? If so, would you be good enough to let me know the reason for which Mr Allegretti has been dismissed from his position.
- c) When has Mr Allegretti been served with the expulsion order or on what date has he been informed of such an order? This point is important, as a number of persons believe that he had already received the expulsion order when applying for permission to act as lawyer in Nuremberg.
- d) In the course of discussions on this matter the fact that Mr Allegretti was a genuine lawyer was also questioned. I should, therefore, greatly appreciate if you or one of the other officers could confirm Mr Allegretti's statement according to which he is a lawyer in Chicago.

1301

(over)



COPY

I feel I owe it to the public and to Mr Allegretti as well to clarify this matter and should therefore be particularly obliged if you could furnish me with the necessary information.

Yours faithfully

Dr Walter Simons

for Dr Simons who, unfortunately, had to leave after dictating the letter and who is apologizing for having been unable to sign personally this letter.

a/A FICKEL

Secretary

Dr. W.
Rechtsan

z.Zt. Ve
Amerikan

Dr. Walter Siemers
Rechtsanwalt zu Hamburg

z.Zt. Verteidiger vor dem
Amerikanischen Militaertribunal
Nuernberg

Nuernberg, den 23. Dezember 1947
Feyerstr. 44

2640
S/P

General B o w l i n g
European Exchange Service

Bad Nauheim

Sehr verehrter General Bowling,

in Ihrer Dienststelle war, soweit ich unterrichtet bin, Mister Thomas Allegretti als Legal Officer bzw. Legal Adviser taetig. Mister Allegretti hatte hier in Nuernberg in dem Prozess gegen I.G.Farben vor dem Amerikanischen Militaergericht, wo ich Dr. Georg von Schnitzler verteidige, im Kinvernehmen mit mir den Antrag gestellt, als Verteidiger zugelassen zu werden, und zwar am 28.9.47. Wie mir Mister Allegretti mitteilte, erhielt er in Ihrer Dienststelle am 27.9.47 den Befehl, Europa zu verlassen, und wurde dann anschliessend auch tatsaechlich entsprechend diesem Befehl gezwungen, nach Amerika zurueckzukehren, wo er sich zurzeit befindet.

Das Amerikanische Militaergericht hat ueber den Antrag vorlaeufig nicht entschieden und mir gegenueber die dilatorische Behandlung damit begruendet, dass Mister Allegretti nach den Zeitungsnachrichten den Ausweisungsbefehl erhalten habe, weil er in seiner Taetigkeit fuer die Militaerregierung bzw. in Ihrer Dienststelle unzuverlaessig gewesen sei bzw. sich irgendwelche Handlungen habe zuschulden kommen lassen, die den Ausweisungsbefehl rechtfertigten. Demgegenueber habe ich darauf hingewiesen, dass Mister Allegretti mir erklart habe, dass er keine Differenzen mit der Militaerregierung gehabt habe und sich auch in Ihrer Dienststelle nichts habe zuschulden kommen lassen. Das Amerikanische Militaergericht hat mir vorgeschlagen, die Angelegenheit zu klaeren.

Nachdem ich gehoert habe, dass Sie bereit waeren, mich zu orientieren, darf ich Sie um die Liebenswuerdigkeit bitten, mir den Sachverhalt darzulegen. Es kommt ganz besonders auf folgende Punkte an:

- a) Worauf beruht der Ausweisungsbefehl?
- b) Hat Mister Allegretti Differenzen mit der Militaerregierung gehabt oder hat er sich in Ihrer Dienststelle irgendwelche bedenkliche Handlungen zuschulden kommen lassen? Gegebenenfalls

waere ich fuer eine Mitteilung dankbar, aus welchem Grunde die Taetigkeit von Mister Allegretti in Ihrer Dienststellte ihr Ende fand.

- c) Wann ist der Ausweisungsbefehl Mister Allegretti zugestellt worden bzw. wann hat er von diesem Ausweisungsbefehl Kenntnis erhalten? Diese Frage ist von Bedeutung, weil teilweise angenommen wird, dass er den Ausweisungsbefehl bereits gehabt habe, bevor er sich in Nuernberg als Anwalt meldete.
- d) Gelegentlich der Besprechungen ueber diese Angelegenheit wurde in Frage gestellt, ob Mister Allegretti ueberhaupt Anwalt sei. Es waere mir daher auch lieb, wenn Sie oder einer der anderen Herren Offiziere die Angaben von Mister Allegretti bestaetigen koennten, wonsch er Anwalt in Chicago ist.

Im allgemeinen Interesse und auch im Interesse von Mister Allegretti fuehle ich mich verpflichtet, die Angelegenheit soweit moeglich aufzuklaeren und waere Ihnen daher zu besonderem Dank verpflichtet, wenn Sie mir die notwendigen Aufklaerungen geben koennten.

Mit vorzueglicher Hochachtung

bin ich

Ihr sehr ergebener

Dr. Walter Siemens

Fuer Herrn Dr. Siemens, der nach Diktat des Briefes leider abreisen musste und vielmals um Entschuldigung bittet, dass er den Brief nicht mehr persoenlich unterzeichnen konnte:

Pickel
Sekretaerin.

092 Telegramm

Deutsche Post

264 ②

RPE 538/4 FRANKFURT 190 4/2700 VIA WUN=

aus

Aufgenommen

Tag: Monat: Jahr: Zeit:

6/10 W 10:15
S 11 R 11

Am: Nürnberg

MILITARY TRIBUNAL NUMBER SIX
PALACE OF JUSTICE NUREMBERG
GERMANY =Übermittelt:
Zeit:

durch:

APPLICATION OF GEORGE VON SCHNITZLER DEFENDANT IN
 MATTER NOW IN HEARING TO PERMIT UNDERSIGNED TO
 APPEAR AS HIS DEFENSE COUNSEL FILED WITH YOU
 ON TWENTY FIVE SEPTEMBER STOP PERMISSION TO
 APPEAR BEFORE TRIBUNAL FOR DETERMINATION THIS MATTER HAS
 REPEATEDLY BEEN DENIED STOP (50) PERSONAL APPEARANCES
 BEFORE COURT IN CHAMBERS REQUESTING ACTION ON THIS
 APPLICATION AND CONTINUANCE OF TRIAL UNTIL SUCH

[(L 40) 17

1304

Die A 5

264

(a)

ACTION HAS BEEN TAKEN ARE NOT MADE A PART OF RECORD
OF PROCEEDINGS STOP IN FAIRNESS TO MY CLIENT GEORGE
VON SCHNITZLER REQUEST INCORPORATION IN RECORD OF
PROCEEDINGS MOTION FOR ME TO APPEAR AS HIS COUNSEL
IS ACTED UPON STOP IN EVT DENIAL THEROF THEN REQUEST
RECORD REFLECT MOTION FOR FURTHER CONTINUANCE AND STAY
OF PROCEEDINGS PENDING DETERMINATION OF APPLICATION
TO FEDERAL COURTS ON GROUNDS OF DENIAL OF COUNSEL
OF SELECTION AND PROVISION AND DENIAL (50) OF OPPORTUNI
TO PROPERLY PREPARE DEFENSE STOP UNDERSIGNED HAS
HELD HIMSELF PRESENT AND AVAILABLE IN NUERNBERG SINCE
TWENTY FIVE SEPTEMBER AND IS READY ABLE AND WILLING TO
UNDERTAKE THE DEFENSE OF HIS CLIENT =
THOMAS ALLEGRETTO COUNSEL FOR GEORGE VON SCHNITZLER++

Thomas Allegratti

Nuernberg, 25 September 1947

SUBJECT: Legal Experience.

TO : Honorable Members of Tribunal
No. VI

The undersigned, Thomas Allegratti, was admitted to practice in the State of Illinois in October 1935. He has practiced before the bar until February 1942 at which time he entered the Armed Services.

He has been an investigator for the Provost Marshal, became an officer through OCS, was Chief of Investigation for the State of Michigan with the Provost Marshal Investigation Section, and has had legal experience as a legal officer with Military Government.

He has had legal experience as defense counsel for Major Lo Buono in the Lietchfield trial and as a legal officer with War Crimes as well as with the Legal Section of EES.

The above experiences together with other courts martial experience should enable him to properly handle the defense of Georg von Schnitzler.

It is therefore requested that his petition to be appointed defense counsel by the Court be accepted.

Thomas Allegratti

MILITARY TRIBUNALS

UNITED STATES OF AMERICA

Against

BRANCH and others

2640
Nuremberg, Germany

Case No. _____

Mil. Trib. No. _____

APPLICATION FOR APPROVAL AS DEFENSE COUNSEL

Comes now THOMAS ALLEGRETTI and states to the Tribunal that GEORGE VON SCHWITLER, one of the abovesaid defendants, has requested that he represent him in the matter of the United States of America vs. BRANCH, et. al.

THEREFORE THOMAS ALLEGRETTI makes application to the Tribunal for his approval as attorney for GEORGE VON SCHWITLER to represent him with respect to the charges pending against him under the above-named indictment.

Dated: 25 Sept. 1947

Thomas Allegretti

25 Sept, 1947 264 D

SUBJECT: Appointment of Attorney
TO : COURT AUTHORITIES

1. I, LILLY von SCHNITZER, in concurrence with my husband GEORGE von SCHNITZER, defendant in U.S. vs. I.G. FARBEN et al, do hereby accept the services of THOMAS ALLEGRETTI, attorney at Law, and appoint him the defense counsel for the above named GEORGE von SCHNITZER.

2. The above mentioned appointment of THOMAS ALLEGRETTI, U.S. Civilian, as defense counsel is in agreement with the present defense counsel, DR. WALTER SIEMERS, who will become co-counsel.

Lilly von Schnitzler

LILLY von SCHNITZER for ~~W. S.~~ self
and on behalf of GEORGE
SCHNITZER

MILITÄRGERICHTSHOF
MÜNCHEN, DEUTSCHLAND

Die Vereinigten Staaten von Amerika
gegen
FRANCK u.s.

Fall Nr. VI
Militärgerichtshof
Nr.

ERSUCHEN ZWEI ANGEKLAGTEN UM VERTEIDIGER
(in die Akten aufzunehmen)

An den Generalsekretär, Militärgerichtshöfe,
Justizpalast,
München, Deutschland

Ich, GEORG VON SCHNITZER, aus Frankfurt a. Main,
ein Angeklagter im obenbezeichneten Fall, ersuche ergebenst,
dass der Name des THOMAS ALLEGRETTI,
dessen Anschrift Josephsberg/Rhein ist,
und der aufgrund bestehender Vorschriften berechtigt und be-
fugt ist, Fälle vor den Gerichten meines Landes zu ver-
treten, in die Akten der Militärgerichtshöfe aufgenommen wer-
de und dass er als mein ordnungsgemäß berufener Anwalt be-
stellt werde, um mich als Angeklagten gegen die Anschuldigung
der Anklage in der oben erwähnten Sache zu verteidigen.

Am 25 Tag des Monats September AD 1947.

Georg von Schnitzer

MILITARY TRIBUNALS

Munich, Germany

28 Jan 48
SECRETARY GENERAL
for MILITARY TRIBUNALS
Date

265 @

UNITED STATES OF AMERICA

Against
Krauch et al.

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunals:

I, Dr. G. Boettcher attorney for

Earl Krauch, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Hans Joachim Freiherr von Kruedener

Occupation and last known location:

Braunfels/Lahn, Burgweg 108

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Clarification as to Document NI 13517.

Letter of Pohl addressed to Krauch of 11 Sept 1944.

These facts are relevant to the defense for the following reasons:
To refute the Prosecution's arguments deduced from this document.

Prosecution's Answer of 29 Jan 48:

No objection, but suggest affidavit

H. A. Parker

27 January 1948

(Date)

(s) Dr. Boettcher

Signature of Defendant's Counsel

PROSECUTION AND DEFENSE NOTIFIED 5 FEB 48

Decision of Tribunal

Approved

Kurt G. Frank
Presiding Judge.

Jan 6 2 Feb 1948 1309

VEREINIGTE STAATEN VON AMERIKA

265 (2)

gegen

Krauch u. Gen.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. O. Beitzke, Verteidiger für Carl Krauch

, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Hans Joachim Freiherr von Knedeler

Beruf und tatsächlicher Wohnort:

Braunfels/Lehn, Burgweg 106

Weitere Angaben die zur Auffindung des benannten Zeugen dienen können:

Die oben benannte Person weiss über die folgenden Tatsachen Bescheid:

Aufklärung über das Dokument MI 13517, Brief Pohl an Krauch
von 11. September 1944

Diese Tatsachen sind aus folgenden Gründen erheblich für die
Verteidigung:

Widerlegung der aus dem Dokument gefolgerten Argumente der
Anklagebehörde

27. Januar 1948

(Datum)

Haus
Unterschrift des Verteidigers

Beschluss des Gerichtshofs

Vorsitzender Richter

266

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
29 JANUARY 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUCH, et al., :

Defendants. :

FILED *29 Jan 1948* with
Secretary General
Case No. 6
for Military Tribunals
Defense Center

ORDER

In accordance with order of this Tribunal made and entered in the above entitled manner upon the 15th day of November 1947 in which said order, Mr. James G. Mulroy was appointed a Commissioner of this Tribunal to preside at and supervise the taking of testimony of such witnesses as might from time to time be designated by this Tribunal on the official record of its proceedings;

And it now appearing that certain of the witnesses designated as aforesaid are now residents of Austria, and that it is necessary for their testimony to be taken by the aforesaid Commissioner, and it appearing that the names of said witnesses are: Josef Johan and Franz Rottenberg, and that said witnesses cannot be produced or examined at Nurnberg, Germany;

and it further appearing that it is necessary for the following persons to be present at and attend the examination of said witnesses to wit: Randolph Newman, Assistant Prosecutor, Elvira Raphael, Research Analyst, one German Court Reporter to be selected by the Chief Court Reporter at Nurnberg, Miss Eunice L. Wendorff, English Court Report, Mr. Max Wagner, German-English Interpreter, Conrad Boettcher, Attorney for Defendants, Wolfram Metzler, Attorney for Defendants, Herbert Nath, Attorney for Defendants, and Rudolf Aschenauer, Attorney for Defendants, and the Tribunal being fully advised in the matter, Now Therefore,

IT IS HEREBY ORDERED that the said Commissioner, James G. Mulroy, be and he is hereby authorized and directed forthwith, or at the earliest practicable date, to proceed to the City of Vienna in the State of Austria, accompanied by the above mentioned persons and, thereafter, in said City proceed with the oral examination of the witnesses designated herein, and the said Commissioner is hereby authorized and directed to make such arrangements as may be necessary for the transportation and billeting of all of the said parties in or between the Cities of Vienna, Austria, and Nurnberg, Germany.

Curtis G. Shale
CURTIS G. SHALE,
Presiding.

Dated this 29th day of January 1948.

DEFENSE NOTIFIED
29 Jan 1948

PROSECUTION NOTIFIED 1311

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
29 JANUARY 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

FILED ¹⁵⁰⁰ 29 Jan 1948

Secretary General
Case No. 6
for Military Tribunals
Defense Center

ORDER

The Tribunal on its own motion hereby designates

Major James Calvin, O-52082, MC
Captain Joseph H. Jacobs, O-1735479, MC
Captain Harry J. Colgan, O-1724920, MC

as a commission to examine the Defendant KONRAD SCHMITZ and to report the result of their examination to the Tribunal for its information.

The Tribunal especially desires a complete report as to the mental condition of said defendant, with particular reference as to whether his state of mind is such that he can make a defense and, if he so desires, testify as a witness in his own behalf. In that connection, the Tribunal wishes to be advised as to the findings of the commission from a medical point of view, leaving it to the Tribunal to draw the ultimate inferences as to whether the defendant can make a defense and testify if he so desires.

In order to facilitate said examination, authority is hereby granted for the removal of said defendant from the prison at Nuremberg, to the 317th Station Hospital at Wiesbaden. The Secretary General is requested to take the necessary steps for the removal of the defendant to said hospital subject to such security measures as the proper military authorities may deem to be necessary and proper under the circumstances. Said defendant is to be returned to the Nuremberg Prison upon the completion of said examination or the further order of the Tribunal.

Curtis G. Shaste
CURTIS G. SHASTE,
Presiding.

Dated this 29th day of January 1948.

DEFENSE NOTIFIED
29 Jan 1948 JDR
PROSECUTION NOTIFIED

MILITARY TRIBUNALS

Furnberg, Germany

FILED 29 Jan 48 with
SECRETARY
for Military
Det. *M*

UNITED STATES OF AMERICA

Against

Krauch and others

Defendant's Application for Subpoena for Witness

TO: The Secretary General, Military Tribunal:

I, Dr. Erich Berndt attorney for Dr. ter Meer

_____, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Dr. Gustav Kuepper

Occupation and last known Location:

Frankfurt/M. Cretzschmarstrasse

Other information that may aid in locating the Person named:

is heard in Court to-day

The person above named has knowledge of the following facts:

personality of Dr. Fritz ter Meer

Gleady done so testified

30 January 1948

L. H. Behr

These facts are relevant to the defense for the following reasons:

Fritz ter Meer's character

28 January 1948

(Date)

Permit

Signature of Defendant's Counsel

Location of Tribunal

Seiner

Kurt G. Thane

Presiding Judge.

4 Feb 1948
1313

PROSECUTION AND
DEFENSE NOTIFIED

Case 6

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Nuernberg, Germany

Case No. 6

Against

Mil. Tribunal VI

Bremach

and others

ORDER APPOINTING DEFENSE COUNSEL

Paul Raefliger

, one of the above-named defendants,

having requested this Tribunal that **Dr. Wolfram von Metzler**

whose address is **Palace of Justice Room 539**, be en-

tered and approved on the records of Military Tribunals as his
lawful attorney.

IT IS ORDERED that the said **Dr. Wolfram von Metzler** be,
and he hereby is, approved as attorney for said **Paul Raefliger**

to represent him with respect to the charges
pending against him under the indictment filed herein.

Dated:

29 January 1948

Walter G. Thade
Presiding Judge

Form MT No-1

DEFENSE NOTIFIED
30 Jan 48
PROSECUTION NOTIFIED

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Munich, Germany

against

Case No. VI

Mil. Trib. No. VI

KRAUCH, and others

APPLICATION FOR APPROVAL AS DEFENSE COUNSEL

Comes now Dr. Wolfram von Mettler and states to the Tribunal that Paul Haefliger, one of the abovesaid defendants, has requested that he represent him in the matter of the United States of America vs. Krauch, et. al.

THEREFORE, Dr. Wolfram von Mettler makes application to the Tribunal for his approval as attorney for Paul Haefliger to represent him with respect to the charges pending against him under the above-said indictment.

Dated: 22 January 1948.

J. W. Huang
Dr. Mettler

UNITED STATES OF AMERICA

Against

CASE NO. 6

Military Tribunal VI

Defendants

REQUEST FOR COUNSEL TO BE ENTERED OF RECORD

To the Secretary General, Military Tribunals

Palace of Justice, Nuremberg, Germany

I, Paul Haefliger, of Frankfurt a. M., a
defendant in the above styled cause, respectfully request that the name of
Dr. Wolfram von Mettler whose address is Nuremberg,
Fuertherstr. 103, and who is a person qualified under existing
regulations to conduct cases before the courts of my country, be entered and
approved on the records of Military Tribunals as my lawful attorney to
represent me as a defendant on the charges pending against me under the
indictment filed in the above-styled cause.

Dated at _____ this 22 day of Jan. AD 1948,

s/ Paul Haefliger

MILITÄRGERICHTSHOF

MÜNCHEN, DEUTSCHLAND

Die vereinigten Staaten von Amerika
gegen

Fall Nr. VI

Militärgerichtshof

Fr. VI

ERSUCHEN EINES ANGEKLAGTEN UM VERTEIDIGER

(in die Akten aufnehmen)

An den Generalsekretär, Militärgerichtshof,
Justizpalast,
München, Deutschland

Ich, Paul Haefliger, aus Frankfurt a.M.,

ein Angeklagter im obenbezeichneten Fall, ersuche ergebenst,

dass der Name des Dr. Wolfram von Mettler,dessen Anschrift München, Färtharstrasse 103 ist,

und der aufgrund bestehender Vorschriften berechtigt und be-

fugt ist, Fälle vor den Gerichten meines Landes zu ver-

treten, in die Akten der Militärgerichtshof aufgenommen wer-

de und dass er als mein ordnungsgemäße berufener Anwalt be-

stellt werde, um mich als Angeklagten gegen die Anschuldigung

der Anklage in der oben erwähnten Sache zu verteidigen.

Am 22. Tag des Monats JANUAR AD 1948.

Paul Haefliger

MT - Fern 1 - 0

Kev 46 - 500

269/5

Dr. Walter Vinassa
B e r n
Bollwerk 19

To: Military Tribunal No. VI
for Case No. VI,

N u e r n b e r g.
Justice Palace

Through: The Secretary General.

The undersigned, Dr. Walter Vinassa, chief defense counsel for the defendant Paul Haefliger, hereby applies

that his assistant defense counsel Dr. Wolfram von Mettler be appointed chief defense counsel in his place

and

that he, Dr. Vinassa, be appointed assistant defense counsel of Dr. v. Mettler

on the following grounds:

Due to his occupation as a lecturer at the university of Bern and his state of health, Dr. Vinassa is prevented from attending permanently the sessions of the Tribunal at Nuernberg during the entire trial and therefore must confine himself to assisting Dr. v. Mettler in procuring evidence and accomplishing other tasks in connection with the preparation of the defense. Under these circumstances Dr. v. Mettler will present the case of Paul Haefliger in the Court. Dr. Vinassa therefore feels it to be more appropriate that Dr. v. Mettler assume the responsibility of a chief defense counsel and that he, Dr. Vinassa, be appointed assistant defense counsel.

Nuernberg, January 22, 1948.

J. W. Vinassa

MILITARY TRIBUNALS

Nuremberg, Germany

UNITED STATES OF AMERICA

Case Number 4

Against

Tribunal No. VI_____ and others

FILED 30 Jan 48 with

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL General

of the Military Tribunals,

Nuremberg, Germany

Dr. Wilfred V. Vianen counsel for **Paul Baugher**

one of the above-named defendants, having requested this Tribunal

that **Dr. Wilfred Vianen**, whose address is**Palace of Justice Room 309**, be entered and approved

on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said **Dr. Wilfred Vianen** be,
and he hereby is, approved as assistant attorney for said**Paul Baugher** to represent him with respect to the
charges pending against him under the indictment filed herein.

Dated:

20 January 1948

Caroline E. Shale

Presiding Judge

DEFENSE NOTIFIED
30 Jan 48
PROSECUTION NOTIFIED

MILITARY TRIBUNALS

UNITED STATES OF AMERICA

Against

KRAUCH, and others

Nuernberg, Germany

Case No. VI

Military Trib. No. VI

272 (2)

APPLICATION FOR APPROVAL OF
ASSISTANT DEFENSE COUNSEL

Comes now Dr. Wilfrid von Mettler and states to the Tribunal that he is attorney for Paul Gaeffler one of the defendants in the matter of United States of America vs. Krauch, et al. That it is necessary that he have an assistant lawyer in this matter.

THEREFORE, Dr. Wilfrid von Mettler makes application to the Tribunal for the approval of Dr. Walter Vinassa as his assistant counsel to assist him with respect to the charges pending against Paul Gaeffler in the above-named indictment.

Dated: Nuernberg, 22, January 1948.

Dr. Wilfrid von Mettler

Dr. W. Vinassa

Dr. Walter Vinassa
B e r n
Hollwerk 19

270 @

To: Military Tribunal No. VI
for Case No. VI,

N u r n b e r g
Justice Palace

Through: The Secretary General.

The undersigned, Dr. Walter V i n a s s a , chief defense counsel for the defendant P a u l H a e f l i g e r , hereby applies

that his assistant defense counsel Dr. Wolfram v o n M e t z l e r be appointed chief defense counsel in his place

and

that he, Dr. Vinassa, be appointed assistant defense counsel of Dr. v. Metzler

on the following grounds:

Due to his occupation as a lecturer at the university of Bern and his state of health, Dr. Vinassa is prevented from attending permanently the sessions of the Tribunal at Nurnberg during the entire trial and therefore must confine himself to assisting Dr. v. Metzler in procuring evidence and accomplishing other tasks in connection with the preparation of the defense. Under these circumstances Dr. v. Metzler will present the case of Paul Haeffliger in the Court. Dr. Vinassa therefore feels it to be more appropriate that Dr. v. Metzler assumes the responsibility of a chief defense counsel and that he, Dr. Vinassa, be appointed assistant defense counsel.

Nurnberg, January 22, 1948.

/s/ Dr. W. Vinassa

1020 429
11/24
The Secretary General
W.

271

ILGNER I.G.CASE- SIK IM BED. DIAGNOSIS : COLD.

30/1/48



h. Handth

1322

(Date) 26 Jan 1948

U.S. vs. Krauch et al.



Notice of Witnesses

TO BE CALLED BY THE PROSECUTION

Dr. Walter Simers

Notice is hereby given that the Defendant

Georg von Schnitzler may call the witnesses named below to testify concerning the matters hereinafter stated.

Name	:	Dr. Julius Overhoff
Nationality	:	German
Address	:	Frankfurt/M.-Eschersheim, Am Schwalbenschwanz 10
Position	:	(former employe with the IG)
Nature of Testimony	:	Relationship between I.G. and Party, Counter Intelligence; IG's relations to foreign countries

Monday 26 January 1948.

Approved:

(s) Dr. Simers

Date _____ Time _____

Approved 26 Jan 48

*Stone
best for Her
Just DL*

(Date) 26 January 1948

U.S. vs. Krauch et al.

Notice of Witnesses

IT IS ORDERED BY THE COURT

Dr. Walter Simers

Notice is hereby given that the Defendant
Georg von Schmitsler call the witness named below to testify con-
 cerning the matters hereinafter stated.

Name	:	Dr. Gustav Kuepper
Nationality	:	German
Address	:	Frankfurt/M. Gretscherstr. 16
Position	:	Attorney
Nature of Testimony	:	Non-participation of the IO in the preparation and planning of wars of aggression as well as agreements concerning dyestuff plants abroad (Czechoslovakia, Poland, France).

Wednesday, Thursday 28, 29 Jan 1948

(s) Dr. Simers

Dated this

Date of

Appended
28-29 Jan
J. Stone

(Date) 28 Jan 1948

U.S. vs. Kranich et al.

Notice of Witnesses

TO BE CALLED BY THE DEFENSE

Dr. Walter Siemens

Notice is hereby given that the Defendant

Georg von Schmitzler call the witness named below to testify concerning the matters hereinafter stated.

Name	:	Hermann Schwab
Nationality	:	German
Address	:	Frankfurt/M. - Niederred, Vogelstr. 11
Position	:	former commercial director
Nature of Testimony	:	Polish dyestuff plant "Beruta", shares in the Polish factory "Winnica", Trusteeship administration of the Polish dyestuff plant "Wola".

Thursday 29 Jan 1948

Friday 30 Jan 1948

SIGNED:

(s) Dr. Siemens

Date of _____ This _____

Approved
29 & 30 Jan 48
Stone

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

Krauch et al.

Defendant's Application for Summons for Witnesses

TO: The Secretary General, Military Tribunal:

I, Dr. Berndt attorney for _____

W. E. Mann hereby request that follow.
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Dr. Josef Grobel

Occupation and last known Location:

Nurnberg

Other information that may aid in locating the Person named:

Exact address will be announced.

The person above named has knowledge of the following facts:

Negotiations between the IG-Farben "Bayer" and the
Rhone-Poulenc.

These facts are relevant to the defense for the following reasons:
To refute count II of the indictment.

Prosecution is answer of Feb 47:

N. G. G. G. G.

E. A. G. G.

30 Jan 1948
(Date)

(s) Dr. Berndt

Signature of Defendant's Counsel

Division of Tribunal

Presiding Judge.

PROSECUTION AND
DEFENSE NOTICE

4 Jan 1948

VEREINIGTE STAATEN VON AMERIKA

gegen

Drach und andere

Antrag eines Angeklagten zur Zeugenverladung

In dem Generalsekretär des Militärgerichtshofes:

Ich, Dr. Bernat

Verteidiger fuer

W. R. Mann

, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Dr. Josef G r o b e l

Beruf und letztbekannter Wohnort:

Basburg

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

keine Anschrift wird noch bekanntgegeben.

Die oben benannte Person weise ueber die folgenden Tatsachen Bescheid:

Verhandlungen von I.G. Farben "BAYER" mit

Rhone-Poulenc

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Entkraeftung des Anklagevortrages zu Punkt II

30. Januar 1944.

(Datum)

Dr. Bernat
Unterschrift des Verteidigers

(Dr. Bernat)

Beschluss des Gerichtshofes

VEREINIGTE STAATEN VON AMERIKA

gegen

~~Krauch und andere~~

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Berndt Verteidiger für

W. R. M a n n, beantrage hiernit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Direktor Dr. P a u l m a n n, Opladen b. Koeln

Beruf und katzbekannter Wohnort:

Weitere Angaben die zur Auffindung des benannten Zeugen dienen können:

genaue Anschrift wird noch bekanntgegeben.

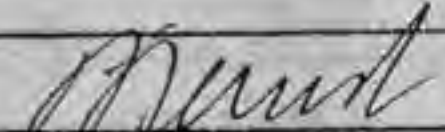
Die oben benannte Person wies über die folgenden Tatsachen Bescheid:
zum Komplex "Degesch" (Zyklen) Anklagepunkt III

Diese Tatsachen sind aus folgenden Gründen erheblich für die
Verteidigung:

Entkräftung des Anklagevortrages zu Punkt III

30. Jan. 1943

(Datum)


Unterschrift des Verteidigers

Beschluss des Gerichtshofes
(Dr. Berndt)

MILITARY TRIBUNALS

Munich, Germany

UNITED STATES OF AMERICA

Against

Krauch et al.

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunal:

I, Dr. Berndt attorney for _____

W. R. Mann, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Director Josef Schmits

Occupation and last known location:

Dyestuff plants BAYER, Cologne-Leverkusen

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Negotiations between the I.G. Farben "BAYER" and the Rhone-Poulenc.

Conclusion of agreement III, furthermore as to the "Dagesch"

(Zyklon) case.

These facts are relevant to the defense for the following reasons:

To refute counts II and III of the indictment.

Prosecution's answer of 2 Dec 47:

No objection

H. A. Frede

30 Jan. 1948

(Date)

(s) Dr. Berndt

Signature of Defendant's Counsel

PROSECUTION AND
DEFENSE NOTIFIED

5 FD. 48

1000

Division of Tribunal

4 Feb. 1948

Presiding Judge.

Christoph Haase

VEREINIGTE STAATEN VON AMERIKA

gegen
Krauch und andere

Antrag eines Angeklagten zur Zeugenverladung

In dem Generalsekretariat des Militärgerichtshofes:

Ich, **Dr. Berndt** Verteidiger fuer _____

F.B. Mann, beantrage hiermit, dass die
(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Direktor Josef Schmitz

Beruf und bekanntester Wohnort:
Farbenfabriken BAYER, Koeln-Leverkusen

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person wies ueber die folgenden Tatsachen Bescheid:

Verhandlungen von I.G. Farben "BAYER" mit

Rhone-Poulenc. Abschluss des Abkommens III,

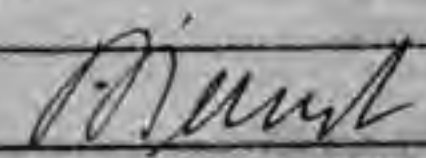
ferner zum Fall "Degesch" ((Zyklon))

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Entkraeftung des Anklagevortrages zu Punkt II und III

30.1.1948

(Datum)


Unterschrift des Verteidigers

(Dr. Berndt)
Beschluss des Gerichtshofes

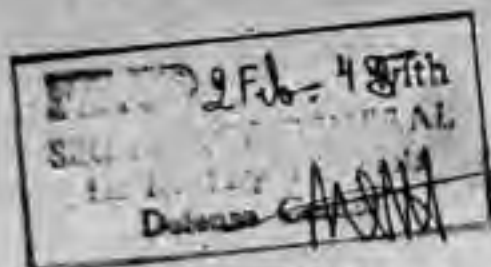
MILITARY TRIBUNALS

Furnberg, Germany

UNITED STATES OF AMERICA

Against

Kranich et al.



278

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunal:

I, Dr. Berndt attorney for

W.R. Mann, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Berner Schmits, first clerk

Occupation and last known location:

Dyeestuff plants BAYER Cologne-Leverkusen

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:
The witness participated in negotiations with the "Ebene-Boulenc"
(count III of the indictment)

These facts are relevant to the defense for the following reasons:
To refute the Prosecution's statements regarding count III of the
indictment.

Prosecution's Answer of 2 Feb. 48.

Dr. Berndt

D. A. [Signature]

30 January 1948

(Date)

(s) Dr. Berndt

Signature of Defendant's Counsel

PROSECUTION AND DEFENSE NOTIFIED

Decision of Tribunal

1332

4 Feb 1948

Presiding Judge.

VEREINIGTE STAATEN VON AMERIKA

gegen
Krauch und andere

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, **Dr. Bernat**

Verteidiger fuer

W. R. Mann

, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Prokurist Werner Schmitt.

Beruf und bekanntester Wohnort:

Farbenfabriken BAYER Ischl-Linz

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person wies ueber die folgenden Tatsachen Bescheid:

Der Zeuge hat an den Verhandlungen mit "Rhône-Poulenc"

teilgenommen (Anlagepunkt III).

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Entkraeftung des Anklagevortrages zu Punkt III.

30. Jan. 1948

(Datum)

Unterschrift des Verteidigers

Beschluss des Gerichtshofes (Dr. Bernat)

MILITARY TRIBUNALS

Hamburg, Germany

UNITED STATES OF AMERICA

Against

Krauch et al.

FILED 2 Feb 48 with
 PROCEEDINGS
 for Motion
 Defense Counsel

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunals:

I, Dr. Berndt attorney for _____W. R. Mann hereby request that follow-
 (Name of Defendant)ing person be summoned by the Tribunal to give evidence in the defend-
 ant's behalf:

Name of Person desired as Witness:

Director Dr. Zahn, Cologne-Leverkusen dyestuff plants Bayer

Occupation and last known Location:

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:
 Count III of the indictment, especially as to Mann's visit paid to State
 Secretary Conti.

Prosecution's answer of 2 Feb. 48:

No objection

X. A. Fischer

These facts are relevant to the defense for the following reasons:
 To refute the indictment with regard to an alleged connection
 of defendant Mann with the charges contained in count III of the
 indictment.

30 January 1948

(Date)

(s) Dr. Berndt

Signature of Defendant's Counsel

Decision of Tribunal

1334

Presiding Judge.

RECEIVED 5 FEB 48
 CIVILIAN AND
 NOTIFICATION

7 Feb. 1948

VEREINIGTE STAATEN VON AMERIKA

gegen
Krauch und andere

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Bernat Verteidiger für

W. R. Mann, beantrage hiermit, dass die
(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Direktor Dr. Zahn, Köln-Leverkusen

Beruf und bekannter Wohnort: Farbenfabriken Bayer

Weitere Angaben die zur Auffindung des benannten Zeugen dienen können:

Die oben benannte Person weist über die folgenden Tatsachen Bescheid:

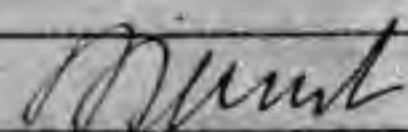
Anlagepunkt III, besonders über den

Besuch Mann bei Staatssekretär Conti

Diese Tatsachen sind aus folgenden Gründen erheblich für die
Verteidigung:

Entkräftung der Anklage in Bezug auf einen behaupteten
Zusammenhang des Angeklagten Mann mit den Verworfenen
zu Punkt III.

30. Jan. 1944
(Datum)


Unterschrift des Verteidigers
(Dr. Bernat)

Beschluss des Gerichtshofs

VEREINIGTE STAATEN VON AMERIKA

gegen
Krauch und andere

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Berndt Verteidiger fuer

W. R. Mann, beantrage hiermit, dass die
(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Direktor Dr. Zahn, Koeln-Leverkusen

Beruf und bekanntester Wohnort: Farbenfabriken Bayer

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person weiss ueber die folgenden Tatsachen Bescheid:

Anlagepunkt III, besonders ueber den

Besuch Mann bei Staatssekretär Conti

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Entkraeftung der Anklage in Bezug auf einen behaupteten
Zusammenhang des Angeklagten Mann mit den Verurteilten
zu Punkt III.

30. Jan. 1945

(Datum)

Dr. Berndt
Unterschrift des Verteidigers

(Dr. Berndt)
Beschluss des Gerichtshofs

FILED 2 Feb. 48 with
SEC. GEN. CENTER
for Military Tribunal
Defense Center

MILITARY TRIBUNALS

Bamberg, Germany

UNITED STATES OF AMERICA

Against

Krauch et al.

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunal:

I, Dr. G. Boettcher attorney for _____

Carl Krauch hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

General Buchenmann

Occupation and last known Location:

Oberursel

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Clarification as to the Keitel order of 31 Oct 1941 re the
employment of Russian prisoners-of-war.

These facts are relevant to the defense for the following reasons:
To refute the charge that Krauch ordered the employment of Russian
prisoners-of-war in the industry.

Prosecution's answer of 5 February 1948

No objection

2 February 1948
(Date)

A. A. Boettcher
(s) Boettcher

Signature of Defendant's Counsel

PROSECUTION AND
DEFENSE NOTIFIED

Decision of Tribunal

Wm. E. Thane
Presiding Judge.

1336
6 Feb 1948

VEREINIGTE STAATEN VON AMERIKA

gegen

Krauch u. Gens.

Antrag eines Angeklagten zur Zeugenverladung

In dem Generalsekretär des Militärgerichtshofes:

Ich, Dr. G. Roettgen Verteidiger fuer Carl Krauch

, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

General Boehnermann

Beruf und Inhaberkennur Wohnort:

Oberursel

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person wies ueber die folgenden Tatsachen Bescheid:

Aufklaerung zum Befehl von Kithel vom 31.10.1941

betr. Einsatz russischer Kriegsgefangener

Diese Tatsachen sind aus folgenden Gruenden ueberhaupt fuer die
Verteidigung:

Entlastung von Krauch von dem Vorwurf,

den Einsatz russ. Kriegsgefangener in der Industrie verantwortl. zu haben.

Prosecution's answer of 5 February 1948. No objection. D.A. SPRECHER.

2. Februar 1948

(Datum)


Unterschrift des Verteidigers

Beschluss des Gerichtshofs

Vorsitzender Richter

ILGNER, I.G. CASE / SICK IN BED.
DIAGNOSIS COLD.

2.2.48.

h. Handke

FILED 2 Feb. 1948

Secretary General
of the League of Nations
Nürnberg, Germany

1338

MILITARY TRIBUNALS

Nurnberg, Germany

FILED 3 Feb 48 with
 SECRETARY GENERAL
 for Military Tribunal
 Defense Counsel

UNITED STATES OF AMERICA

Against

Karl Krauch et al.Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunals: No. VI

I, Dr. Hellmuth Dix attorney for _____Dr. Christian Schneider, hereby request that follow-
 (Name of Defendant)ing person be summoned by the Tribunal to give evidence in the defend-
 ant's behalf:

Name of Person desired as Witness:

Dr. Johann Giesen

Occupation and last known Location:

I.G. plant Uerdingen (Rhineland)

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Dr. Schneider's personality, production and labor conditions in
Leuna as well as the activity of Sparte I in Auschwitz.These facts are relevant to the defense for the following reasons:
 With regard to the Prosecution's charges.

Prosecution's answer of 4 Feb. 48:
No objection. X. A. Becker

Nurnberg 2 Febr 1948

(Date)

(s) Dr. Hellmuth Dix

Signature of Defendant's Counsel

PROSECUTION AND
 DEFENSE NOTIFIED

Decision of Tribunal

1339

6 Feb 1948

Presiding Judge.

VERBUNDENE STAATEN VON AMERICA

gegen

Karl Krauch et al.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes: No. VI.

Ich, Dr. Hellmuth Dix Verteidiger fuer Dr. Christian Schneider

beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Dr. Johann Giesen

Beruf und Wohnort:

I.G.-Werk Hardingen (Rheinland)

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

/s/

Die oben benannte Person weiss ueber die folgenden Tatsachen Bescheid:
die Person Dr. Schneiders, die Verhaeltnisse der Produktion
und der Arbeitskraefte in Leuna und die Taetigkeit der Sparte I
in Auschwitz.

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Im Hinblick auf das Vorbringen der Anklage.

Muenberg, den 2. Februar 1948

(Datum)

Dr. Hellmuth Dix

Unterschrift des Verteidigers

Beschluss des Gerichtshofes

Vorsitzender Richter

MILITARY TRIBUNALS

Nurnberg, Germany

FILED 3 Feb 48 with
 SECRETARY GENERAL
 for Military
 Defense

UNITED STATES OF AMERICA

Against

Karl Krauch et al.Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunal:

I, Dr. Hellmuth Dix attorney for _____Dr. Christian Schneider, hereby request that follow-
 (Name of Defendant)ing person be summoned by the Tribunal to give evidence in the defend-
 ant's behalf:

Name of Person desired as Witness:

Dr. Hans Kaeding

Occupation and last known location:

I.G.-plant Uerdingen (Rhineland)

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:
Dr. Schneider's personality, production and labor conditions in Leuna
as well as the activity of Sparte I in Aschwitz.

These facts are relevant to the defense for the following reasons:
 With regard to the Prosecution's charges.

Prosecution's Answer to the Defense
No objection
Z. J. Becker

Nurnberg 2 February 1948

(Date)

(s) Dr. Hellmuth Dix

Signature of Defendant's Counsel

Decision of TribunalPROSECUTION AND
 DEFENSE NOTIFIED

1341

Presiding Judge.

6 Feb 1948

me 6

VEREINIGTE STAATEN VON AMERIKA

gegen

Karl Krauch et al.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes: No. VI.

Ich, Dr. Hellmuth Dix Verteidiger fuer Dr. Christian Schneider

, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Dr. Hans K a e d i n g

Beruf und bisher bekannter Wohnort:

I.G.-Werk Uerdingen (Rheinland)

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person weiss ueber die folgenden Tatsachen Bescheid:
die Person Dr. Schneiders, die Verhaeltnisse der Produktion
und der Arbeitskraefte in Leuna und die Taetigkeit der Sparte I
in Auschwitz.

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Im Hinblick auf das Vorbringen der Anklage.

Nürnberg, den 2. Februar 1948.

(Datum)

H. Hellmuth Dix

(Dr. Hellmuth Dix)
Unterschrift des Verteidigers

Beschluss des Gerichtshofes

ILLGNER -I.G.CASE- SICK IN BED.

DIAGNOSIS. COLD.

NBG.3.2.48.



H. Handke

6 1343

1343

MILITARY TRIBUNALS

Eurnberg, Germany

UNITED STATES OF AMERICA

Against

Krauch et al.

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunal:

I, Dr. Herbert Nath attorney for _____

Max Ilgner, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Dr. Bernhard Dietrich, Berlin-Frohnau, Bisselhaiderweg 19

Occupation and last known location:

Other information that may aid in locating the Person named:

XXX not necessary

The person above named has knowledge of the following facts:

Dr. Ilgner's economic relations with foreign countries, especially
South-East-Europe (Count I of the indictment)

These facts are relevant to the defense for the following reasons:

No objection by Prosecution
4 Feb 1948
H. V. Fischer

3 Febr 1948

(Date)

(s) Dr. Nath

Signature of Defendant's Counsel

Decision of Tribunal

PROSECUTION AND
DEFENSE NOTIFIED *9 Feb.*

1344

6 Feb 1948

Ernst H. Thade
Presiding Judge.

MILITÄRGERICHTSHOF
Saarburg, Deutschland

VEREINIGTE STAATEN VON AMERIKA

gegen
Bruch u.s.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, **Dr. HERBERT KATH**, Verteidiger fuer ////////////////////

Max ILGNER, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Dr. Bernhard BIERHAGE, Berlin-Friedrich, Bismarckstrasse 19

Beruf und hiesiger Wohnort:

Weitere Angaben die zur Auffindung des benannten Zeugen dienen könnten:

nicht erforderlich

Die oben benannte Person weist ueber die folgenden Tatsachen Bescheid:

Dr. Ilgner's Wirtschaftsbeziehungen zum Ausland, insbesondere

Skandinavien (Anklagepunkt I)

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

3. Februar 1948

(Datum)

W. W. W.
Unterschrift des Verteidigers

Beschluss des Gerichtshofs

1345

Vorsitzender Richter

MILITARY TRIBUNALS

Nurnberg, Germany

FILED 4 Feb 48 with
 SECRETARY GENERAL
 for Military Tribunal
 Defense *[Signature]*

UNITED STATES OF AMERICA

Against

Krauch et al.Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunals:

I, Dr. Herbert Math attorney for _____Max Ilgner, hereby request that follow-
 (Name of Defendant)ing person be summoned by the Tribunal to give evidence in the defend-
 ant's behalf:

Name of Person desired as Witness:

Dr. Guenther Frank-Fahle, Luisenhof, Oberursel in Taunus

Occupation and last known location:

Other information that may aid in locating the Person named:

not necessary

The person above named has knowledge of the following facts:

As to count I of the indictment, especially espionage and propaganda

These facts are relevant to the defense for the following reasons:

*Prosecution's answer of 4 Feb 47:
 No objection, provided no repetition of
 prior testimony by or stated or by
 affidavits. Dr. H. Math*

3 February 1948

(Date)

(s) Dr. Math

Signature of Defendant's Counsel

Decision of Tribunal

PROSECUTION AND DEFENSE NOTIFIED

6 Feb 1948

Presiding Judge,

VEREINIGTE STAATEN VON AMERIKA

gegen
Brauch u.s.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. ROBERT MATH Verteidiger für Max HANSEN

-----, beantrage hiermit, dass die
(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Dr. Günther FRANK-FAHNE, Luisenhof, Oberursel im Taunus
Beruf und Lebensbekannter Wohnort:

Weitere Angaben die zur Auffindung des benannten Zeugen dienen können:

nicht erforderlich

Die oben benannte Person weiss über die folgenden Tatsachen Bescheid:

In Anklagepunkt I, insbesondere Spionage und
Propaganda

Diese Tatsachen sind aus folgenden Gründen erheblich für die
Verteidigung:

3. Februar 1948

(Datum)

A. W. Math
Unterschrift des Verteidigers

Beschluss des Gerichtshofs

1347

Vorsitzender Richter

FILED 4 Feb 48 with
SECRETARY GENERAL
for Military Tribunals
Defense Counsel

MILITARY TRIBUNALS
Nurnberg, Germany

UNITED STATES OF AMERICA

Against
Krauch et al.

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunals:

I, Dr. Herbert Math attorney for

Max Ilgner, hereby request that follow.
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Adolf Friedrich v. Mecklenburg, Butin

Occupation and last known Location:

Other information that may aid in locating the Person named:

not necessary

The person above named has knowledge of the following facts:

Kiel Week

with regard to Dr. Ilgner's personality

These facts are relevant to the defense for the following reasons:
Prosecution's answer of 5 February 1948

No objection

D.A. KEMMERER
A. H. Beebe

3 Febr 1948
(Date)

(s) Dr. Math
Signature of Defendant's Counsel

NOTATION AND
NOTIFIED

Decision of Tribunal

1348

Presiding Judge.

6 Feb 1948

VEREINIGTE STAATEN VON AMERIKA

gegen

Frank W.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. HERBERT HASE Verteidiger fuer ////////////////////

Max ELGER

, beantrage hiermit, dass die

(Namen des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Adolf Friedrich v. Mecklenburg, Rittm.

Beruf und Lebensbekannter Wohnort:

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

nicht erforderlich

Die oben benannte Person weiss ueber die folgenden Tatsachen Bescheid:

Elmer Weeks

zur Person von Dr. Elger

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Prosecution's answer of 5 February 1948:

No objection. D.A. SPRECHER.

3. Februar 1948

(Datum)

Wahl
Unterschrift des Verteidigers

Beschluss des Gerichtshofes

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY

THE UNITED STATES OF AMERICA	:	
- vs. -	:	Case No. 6
CARL KRAUCH, et al.,	:	Commissioner's Notice
Defendants.	:	of taking Evidence.

FILED 4 Feb. 1948
Bfm
Secretary General
of Military Tribunal
Nürnberg, Germany

TO: Each of the defendants in the above-entitled case and their Counsel,
and to the Secretary General and Marshal of U. S. Military Tribunal VI:

You, and each of you, will please take notice that in accordance with an Order of the above entitled Tribunal, dated 29th day of January, 1948 the undersigned, JAMES G. MULROY, as Commissioner of said Tribunal, upon the 5th day of February, 1948, at the hour of 9:30 A. M. (or as soon thereafter as practicable) at Vienna, Austria, at a place to be designated by the U. S. Military Authorities thereat, will proceed to take the testimony of the following named witnesses: Josef Johan and Franz Rottenberg, and at said time and place the said witnesses will be called, sworn, and required to testify upon Direct, Cross, and Redirect examination as to matters and things contained in any exhibits in which they may appear as Affiants in the above case; and in the event that the taking of such witness' testimony shall not be completed upon the date specified as above, then, and in that event, the same may be continued to such date or dates and times as shall seem proper.

Dated at Nurnberg, Germany,
this 4th day of February, 1948.

James G. Mulroy
Commissioner

Due and timely service of copies of
the above notice is hereby acknowledged
this 4 day of February, 1948.

R. W. Hunter
Counsel for Defendants

Emile H. Berell
Prosecuting Attorney

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
4 FEBRUARY 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

Case No. 6

FILED *Shake* with
Secretary General
Office
Center

ORDER

It appearing to the Tribunal that it is necessary for certain original exhibits to be taken by James G. Malroy as Commissioner of this Tribunal, to the City of Vienna, Austria, for use in the taking of testimony of witnesses in said city;

Such original exhibits to be returned upon the completion of said examinations, and the court being fully advised in the premises;

IT IS HEREBY ORDERED that the original exhibits, Numbers 1067 and 1068, being MI 10998 and MI 10997 respectively may be withdrawn from the Archives of the Secretary General, and delivered to the said Commissioner, James G. Malroy, in accordance with the terms of this order.

Curtis G. Shake
CURTIS G. SHAKE,
Presiding.

Dated this 4th day of February 1948.

DEFENSE NOTIFIED
Shake
PROSECUTION NOTIFIED

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
3 FEBRUARY 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

FILED 5 Feb 1948 With
Case No. 6
Secretary General
for Military Tribunals
Defense Center

ORDER

Since the opening of this trial, 27 August 1947, Dr. Ernst Achenbach has been chief counsel of record for the Defendant Friedrich Gajewski. The Tribunal has noted, however, the absence of Dr. Achenbach from participation in the trial since 16 January 1948.

The Tribunal is now advised by Dr. Achenbach that he resides in Essen in the British zone and only spends his time in Nuremberg on a temporary basis to discharge his responsibilities in this case and before another Tribunal where he is also counsel. Dr. Achenbach has further advised the Tribunal that he has information to the effect that the Bavarian Ministry for Special Tasks in Munich holds a warrant for his arrest which, however, has not been served upon him. The Tribunal has no information as to the nature of the charge upon which said warrant was issued. Said Counsel has asked the Tribunal to intervene in his behalf so that he may be assured of the privilege of participation in this trial and in the discharge of his professional responsibilities to his client.

The Tribunal has interrogated the Defendant Friedrich Gajewski and has ascertained from him that it is his preference to be represented in this trial by said Ernst Achenbach.

This Tribunal has no disposition to intervene with respect to the duties and responsibilities of other courts or agencies. It is the responsibility of the Tribunal, however, to see that defendants on trial are adequately represented by competent counsel. The Tribunal therefore directs the Secretary General to contact the Bavarian Ministry for Special Tasks and ascertain from said agency whether it would be compatible with its responsibilities in the premises to withhold service of the warrant for the arrest of said Ernst Achenbach until such time as he has discharged his duties in the trial of the case now pending before this Tribunal.

Curtis G. Shanks
CURTIS G. SHANKS,
Presiding.

Dated this 8th day of February 1948.

DEFENSE NOTIFIED 1352 PROSECUTION NOTIFIED

Leveloh
Rechtsanwalt u. Notar
Schulte zur Hausen
Dr. jur. Ernst Achenbach
Rechtsanwälte
Fernsprecher: 2877
Postfachkassette: Essen 6026

290
ESSEN, January 26th, 1948
Zweigstraße 24 (Erichshof)

FILED 5 Feb. 1948
B8m
Secretary General
of Military Tribunal
Nürnberg, Germany

To Presiding Judge American Military Tribunal in case 6

United States of America against
Krauch and others

Your Honour,

May I with Your Honour's kind permission submit
to the Court in case 6 the following facts:

By order dated 10 June 1947 I was appointed defense
counsel for Dr. Friedrich Gajewski in case 6.

The last session of the Court I attended took place
on Friday, 16 January 1948. In the evening of this same day I
left Nürnberg by train for Aachen in order to meet there a
Belgian lawyer. An official travel order for this trip had been
issued to me through the courtesy of the defense center. I
planned to be back in Nürnberg on Sunday, 18 January 1948 and
to attend the next session of the Court on Monday, 19 January
1948.

In the early morning hours of 17 January 1948 two
German policemen came to my Nürnberg apartment in order to
arrest me. I was informed that they were in possession of a
warrant of arrest issued by the Spruchkammer Nürnberg, itself
acting upon an order received from the Bavarian Ministry for
Special Tasks in Munich. It seems that the reason given for the
warrant of arrest is the contention that in view of my alleged-
ly reprehensible former activity as second secretary at the Ger-
man Embassy in Paris I had to expect the imposition of sanctions
by the Spruchkammer and therefore I could be suspected of want-
ing to flee. In fact by decision of Ribbentrop I was withdrawn
from Paris in the spring of 1945 because of my being too friend-
ly towards the French and dismissed from the Foreign Service
altogether in 1944 the pretext being that I have an American
wife.

Since 17 January 1948 I am therefore by the inter-
ference of Bavarian denazification authorities not in a position
anymore to assure the defense of my client in a free and un-
hampered way.

There are no valid grounds for the issuing of the
warrant of arrest against me by the Nürnberg Spruchkammer, nor
are they indeed competent for such action. I am a lawyer in
Essen, domiciled in that town and only temporarily in Nürnberg

240
(52)

for the specific purpose of acting as defense counsel in two particular cases pending before the American Military Tribunals - an activity in which before its beginning I had to be and was approved by the Tribunals concerned. As can be seen from the enclosure I am denazified in the British zone.

When I was informed of the action taken by the Spruchkammer I immediately turned to the Minister of Justice of North Rhine Westphalia and the British Military Government authorities, Legal Division, Ministry of Justice Control Branch - in Düsseldorf and Herford in order to put myself at their disposal. These authorities expressed their surprise that a lawyer admitted and domiciled in the British zone who goes temporarily to the American zone in order to act as a defense counsel before an American Military Tribunal should, after having been duly admitted in that quality by this American Tribunal, be exposed to renewed denazification proceedings by the local authorities and thus be prevented from exercising his duties before the Tribunal. I understand that the British Legal Division will take this ~~matter~~ case up as a matter of principle with the competent American Military Government authorities. It would seem in fact to show a lack of respect for the Tribunal which admitted counsel, if in the midst of the trial some other authority without informing the Tribunal could interfere with counsel's freedom and thus make a proper defense impossible.

I have been advised by the British Military authorities to address myself to the Court and ask for its protection in the fulfillment of my duties as defense counsel. I therefore submit to Your Honour the petition that the Court instruct the Spruchkammer Nürnberg to withdraw the warrant of arrest and abstain from any interference with my personal freedom to go and stay wherever I wish and may lawfully do so.

If the Spruchkammer or the Bavarian Ministry for Special Tasks believe to have reasons to doubt the correctness of the decision taken by the competent authorities in the British Zone concerning my status as a lawyer they are at liberty to pass on their information to the competent denazification authorities in the British Zone for proper consideration and decision. In fact, these authorities will ask for this information. I shall gladly at the proper time and before the proper authorities answer any charges brought forward against me knowing that they are in no way justified.

During the trial of my client, however, it is my duty to concentrate all my efforts upon his defense. I cannot do this if I am called upon to give simultaneously time and thought to this my client is not concerned with.

I should be particularly grateful to Your Honour if Your Honour would kindly inform my colleague von Mettler who will be good enough to give this letter to Your Honour, of the Court's decision in this matter.

Very respectfully

Ernst Hohenzollern

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

Krauch et al.

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunals:

I, Rudolf Aschenauer attorney for

Gattineau, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Dr. Friedrich Weber (former Ministerialdirektor)

Occupation and last known location:

at present Justice Prison, Nurnberg

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

The Prosecution's charge as to Dr. Gattineau's political activity.

These facts are relevant to the defense for the following reasons:
see indictment.

Prosecution's answer of 9 February 1948.

No objection

Nurnberg 5 February 1948

(Date)

(s) Aschenauer

Signature of Defendant's Counsel

Decision of Tribunal

Presiding Judge.

PROSECUTION AND DEFENSE

NOTICE

Jan 6

48 1354
71 Feb 1948

VEREINIGTE STAATEN VON AMERIKA

gegen

Krauch u.a.Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Edolf Aschenauer Verteidiger fuerGattineau,beantrage hiermit, dass die
(Name des Angeklagten)nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:Dr. Friedrich Weber (früherer Ministerialdirektor)

Beruf und tatsächlicher Wohnort:

s.Zt. Gerichtsgefängnis Murnberg

Weitere Angaben die zur Auffindung des benannten Zeugen dienen können:

Die oben benannte Person wies über die folgenden Tatsachen Bescheid:
Beschuldigung der Anklage über die politische Tätigkeit von Dr. GattineauProsecution's answer of 9 February 1948:No objection.

D.A. SPRECHER.

Diese Tatsachen sind aus folgenden Gründen erheblich fuer die
Verteidigung:siehe AnklageschriftMurnberg, 5.2.1948

(Datum)

Unterschrift des Verteidigers

Beschluss des Gerichtshofs

Vorsitzender Richter

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
8 FEBRUARY 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

FILED *10 Feb 1948* with
Secy General
for Military Tribunals
Defense Center

ORDER

United States Military Tribunal VI and the judges constituting said Tribunal, pursuant to Military Government Ordinance No. 7, Article V (f), hereby approves and adopts the attached "Uniform Rules of Procedure, Military Tribunals, Nuremberg", dated 8 January 1948, which said rules of practice and procedure are made a part of this order by reference.



Ernest G. Hare
Presiding Judge

James Morris
Judge

Paul M. Nebent
Judge

Charles F. Merrill
Alternate Judge

Dated this 6th day of February 1948.

PROSECUTION NOTIFIED

10 Feb 1948

DEFENSE NOTIFIED

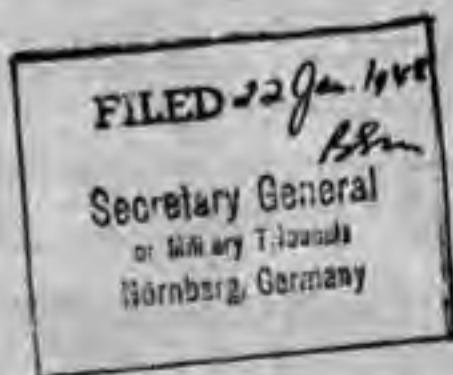
OFFICE OF MILITARY GOVERNMENT (US)

Uniform Rules of Procedure

Military Tribunals

Nuremberg

Revised to 8 January 1948



292
③

RULES OF PROCEDURE FOR MILITARY TRIBUNAL**

Rule 1. Authority to promulgate Rules

The present rules of procedure of the Military Tribunal constituted by General Order No. 68 of the Office of Military Government for Germany (U.S.) hereinafter called "Military Tribunal" or "the Tribunal" are hereby promulgated by the Tribunal in accordance with the provision of Article V (f) of Military Government Ordinance No. 7 issued pursuant to the powers conferred by Control Council Law No. 10.

Rule 2. Languages in which Pleadings, Documents and Rules shall be Transcribed.

When any Rule of Procedure adopted by Military Tribunal directs or requires that a defendant in any position before the Tribunal shall be furnished with a copy of any pleading, document, rule, or other instrument in writing, such Rule shall be understood to mean that such defendant shall receive a true and correct copy of such pleading, document, rule, or other instrument, written in the English language, and also a written translation thereof in a language which the defendant understands.

Rule 3. Notice to Defendants

(a) The Marshal of Military Tribunals, or his duly authorized deputy, shall make service of the indictment upon a defendant in any prosecution before the Tribunal by delivering to and leaving with him (1) a true and correct copy of the indictment and of all documents lodged with the indictment, (2) a copy of Military Government Ordinance No. 7, (3) a copy of Control Council Law No. 10, and (4) a copy of these Rules of Procedure.

(b) When such service has been made as aforesaid, the Marshal shall make a written certificate of such fact, showing the day and place of service, and shall file the same with the Secretary General of Military Tribunals.

(c) The certificate, when filed with the Secretary General, shall constitute a part of the record of the case.

292
②

Rule 4. Time Intervening before Service and Trial

A period of not less than thirty days shall intervene between the Service of the indictment upon a defendant and the day of his trial pursuant to the indictment.

Rule 5. Notice of Amendments or Additions to Original Indictment

(a) If before the trial of any defendant the Chief of Counsel for War Crimes offers amendments or additions to the indictment, such amendments or additions, including any accompanying documents, shall be filed with the Secretary General of Military Tribunals and served upon such defendant in like manner as the original indictment.

Rule 6. Defendant to receive certain Additional Documents on Request

(a) A defendant shall receive a copy of such Rules of Procedure, or amendments thereto as may be adopted by the Tribunal from time to time.

(b) Upon written application by a defendant or his counsel, lodged with the Secretary General for a copy of (1) the Charter of the International Military Tribunal annexed to the London Agreement of 8 August 1945, or (2) the Judgment of the International Military Tribunal of September 30 and October 1, 1946, the same shall be furnished to such defendant, without delay.

Rule 7. Right to Representation by Counsel

(a) A defendant shall have the right to conduct his own defense, or to be represented by counsel of his own selection, provided such counsel is a person qualified under existing regulations to conduct cases before the courts of defendant's country, or is specially authorized by the Tribunal.

(b) Application for particular counsel shall be filed with the Secretary General, promptly after service of the indictment upon the defendant.

(c) The Tribunal will designate counsel for any defendant who fails to apply for particular counsel, unless the defendant elects in writing to conduct his own defense.

(d) Where particular counsel is requested by a defendant but is not available or cannot be found within ten days after application therefore has been filed with the Secretary General, the Tribunal will designate counsel for such defendant, unless the defendant elects in writing to con-

duct his own defense. If thereafter, before trial, such particular counsel is found and is available, or if in the meanwhile a defendant selects a substitute counsel who is found to be available, such particular counsel, or substitute, may be associated with or substituted for counsel designated by the Tribunal; provided that (1) only one counsel shall be permitted to appear at the trial for any defendant, except by special permission of the Tribunal, and (2) no delay will be allowed for making such substitution or association.

Rule 8. Order at the Trial

In conformity with and pursuant to the provisions of Article IV and VI of Military Government Ordinance No. 7, the Tribunal will provide for maintenance of order at the trial.

Rule 9. Oath: Witnesses

(a) Before testifying before the Tribunal each witness shall take such oath or affirmation or make such declaration as is customary and lawful in his own country.

(b) When not testifying, the witness shall be excluded from the Courtroom. During the course of any trial, witnesses shall not confer among themselves before or after testifying.

Rule 10. Motions and Applications (except for witnesses and documents)

(a) All motions, applications (except applications for witnesses and documents) and other requests addressed to the Tribunal shall be filed with the Secretary General of Military Tribunals, at the Palace of Justice, Nuernberg, Germany.

(b) When any such motion, application or other request is filed by the prosecution there shall be filed therewith five copies in English and two copies in German; when filed by the defense there shall be filed therewith one copy in German to which shall be added by the Secretary General eight copies in English.

(c) The Secretary General shall deliver a translated copy of such motion, application or other request to the adverse party and note the fact of delivery, specifying the date, hour and place, upon the original. The adverse party shall have 72 hours after delivery to file with the Secretary General his objections to the granting of such motion, application or other request. If no objection is filed, the presiding Judge of the Tribunal will make the appropriate order on

behalf of the Tribunal. If objections are filed, the Tribunal will consider the objections and determine the questions raised.

(d) Delivery of a copy of any such motion, application or other request to counsel of record for the adverse party shall constitute delivery to such adverse party.

Rule 11. Rulings during the Trial

The Tribunal will rule upon all questions arising during the course of the trial. If such course is deemed expedient, the Tribunal will order the clearing or closing of the Courtroom while considering such questions.

Rule 12. Production of Evidence for a Defendant

(a) A defendant may apply to the Tribunal for the production of witnesses or of documents on his behalf, by filing his application therefor with the Secretary General of Military Tribunals. Such application shall state where the witness or document is thought to be located, together with the last known location thereof. Such application shall also state the general nature of the evidence sought to be adduced thereby, and the reason such evidence is deemed relevant to the defendant's case.

(b) The Secretary General shall promptly submit any such application to the Tribunal, and the Tribunal will determine whether or not the application shall be granted.

(c) If the application is granted by the Tribunal, the Secretary General shall promptly issue a summons for the attendance of such witness or the production of such documents, and inform the Tribunal of the action taken. Such summons shall be served in such manner as may be provided by the appropriate Occupation authorities to insure its enforcement, and the Secretary General shall inform the Tribunal of the steps taken.

(d) If the witness or the document is not within the area controlled by the United States Office of Military Government for Germany, the Tribunal will request through ^{proper} channels the Allied Control Council arrange for the production of any such witness or document as the Tribunal may deem necessary to the proper presentation of the defense.



Rule 13. Records, Exhibits and Documents.

(a) An accurate stenographic record of all oral proceedings shall be maintained. Exhibits shall be suitably identified and marked as the Tribunal may direct. All exhibits and transcripts of the proceedings, and such other material as the Tribunal may direct, shall be filed with the Secretary General and shall constitute a part of the record of the cause.

(b) Documentary evidence or exhibits may be received in the language of the document, but a translation thereof into a language understood by the adverse party shall be furnished to such party.

(c) Upon proper request, and approval by the Tribunal, copies of all Exhibits and transcripts of proceedings, and such other matter as the Tribunal may direct to be filed with the Secretary General, and all official acts and documents of the Tribunal, may be certified by said Secretary General to any government, to any other tribunal, or to any agency or person as to whom it is appropriate that copies of such documents or representations as to such acts be supplied.

Rule 14. Withdrawal of Exhibits and Documents, and Substitution of Photostatic Copies Therefor.

If it be made to appear to the Tribunal by written application that one of the Government signatories to the Four Power Agreement of 8 August 1945, or any other government having received the consent of the said four signatory powers, desires to withdraw from the records of any cause, and preserve, any original document on file with the Tribunal, and that no substantial injury will result thereby, the Tribunal may order any such original document to be delivered to the applicant, and a photostatic copy thereof, certified by the Secretary General, to be substituted in the record therefor.

Rule 15. Opening Statement for Prosecution.

The prosecution may be allowed, for the purpose of making the opening statement, time not to exceed one trial day. The Prosecutor may allocate this time between himself and any of his assistants as he may wish.



Rule 16. Opening Statement for Defense.

When the prosecution rests its case, defense counsel will be allotted two trial days within which to make their opening statement, which will comprehend the entire theory of their respective defenses. The time allotted will be divided between defense counsel as they may themselves agree. In the event that defense counsel cannot agree, the Tribunal will allot the time not to exceed thirty minutes to each defendant.

Rule 17. Prosecution to File Copies of Exhibits - Time for Filing.

The prosecution, not less than twenty-four hours before it desire to offer any record, document, or other writing in evidence as part of its case in chief, shall file with the defendant's Information Center not less than one copy of each record, document, or writing for each of the counsel for defendants, such copy to be in the German language. The prosecution shall also deliver to defendants' Information Center at least four copies thereof in the English language.

Rule 18. Copies of All Exhibits to be Filed with Secretary General.

When the prosecution or any defendant offers a record, document, or other writing or a copy thereof in evidence, there shall be delivered to the Secretary General, in addition to the original of the document or other instrument in writing so offered for admission in evidence, six copies of the document. If the document is written or printed in a language other than the English language, there shall also be filed with the copies of the document above referred to, six copies of an English translation of the document. If such document is offered by any defendant, suitable facilities for procuring English translations of that document shall be made available to the defendant.

Rule 19. Notice to Secretary General Concerning Witnesses.

At least twenty-four hours before a witness is called to the staff either by the prosecution or by any defendant, the party who desires the testimony of the witness shall deliver to the Secretary General an original and six copies of a memorandum which shall disclose: (a) the name of the witness; (b) his nationality; (c) his residence or station; (d) his official rank or position; (e) whether he is called as an expert witness or as a witness to testify to the facts, and if the latter, a



brief statement of the subject matter concerning which the witness will be interrogated. When the prosecution prepares such a statement in connection with a witness whom it desires to call, at the time of the filing of the foregoing statement two additional copies thereof shall be delivered to the defendant's Information Center. When a defendant prepares the foregoing statement concerning a witness whom he desires to call, the defendant shall, at the same time the copies are filed with the Secretary General, deliver one additional copy to the prosecution.

Rule 20. Judicial Notice.

When either the prosecution or a defendant desires the Tribunal take judicial notice of any official government document or report to the United Nations, including any act, ruling, or regulation of any committee, board, or council heretofore established by or in the allied nations for the investigation of war crimes, or any record made by, or finding of, any military or other Tribunal of any of the United Nations, this Tribunal may refuse to take judicial notice of such document, rule or regulation unless the party proposing to ask this Tribunal to judicially notice such a document, rule, or regulation, places a copy thereof in writing before the Tribunal.

Rule 21. Procedure for Obtaining Written Statements.

Statements of witnesses made "in lieu of an oath" may be admitted in evidence if otherwise competent and admissible and containing statements having probative value if the following conditions are met.

(1) The witness shall have signed the statement before defense counsel, or one of them, and defense counsel shall have certified thereof;

or
(2) The witness shall have signed the statement before a notary, and the notary shall have certified thereto; or

(3) The witness shall have signed the statement before a burgomaster, and the burgomaster shall have certified thereto, in case neither defense counsel nor a notary is readily available without great inconvenience; or

(4) The witness shall have signed the statement before a competent prison camp authority, and such authority shall have certified thereto in case the witness is incarcerated in a prison camp.



(5) The statement "in lieu of an oath" shall contain a preamble which shall state, "I, (name and address of the witness) after having first been warned that I will be liable for punishment for making a false statement in lieu of an oath and declare that my statement is true in lieu of an oath, and that my statement is made for submission as evidence before Military Tribunal____, Palace of Justice, Nurnberg, Germany, the following:"

(6) The signature of the witness shall be followed by a certificate stating: "the above signature of (stating the name and address of the witness) identified by (state the name of the identifying person or officer) is hereby certified and witnessed by me. (To be followed by the date and place of the execution of the statement and the signature and witness of the person or officer certifying the same.)"

Rule 22. Special Circumstances

If special circumstances make compliance with any one of the above conditions impossible or unduly burdensome, then defense counsel may make application to the Tribunal for a special order providing for the taking of the statement of desired witness concerning conditions to be completed with in that specific instance.

Rule 23. Interviewing of Witnesses

In all cases where persons are detained in the Nurnberg Jail either as witnesses or prospective witnesses, and counsel for the prosecution or the defense wish to interview or interrogate such witnesses, the following procedure shall be followed:

(1) Counsel desiring such interview or interrogation shall give at least forty-eight (48) hours notice in writing to the opposite side, stating the title of the case, the name of the witness and the date and hour of the proposed interview or interrogation and no more. The proposed interview shall not involve compensation for overtime. Prosecution shall give notice by filing such notice with the Defense Center. Defense Counsel shall file such notice with Defense Center which shall give notice to the Division of the prosecution concerned.



292
(11)

(2) In case the prosecution wishes to interview or interrogate such witness, counsel for the defendant of defendants involved shall have the right to be present. In case a defense counsel wishes to interview or interrogate such a witness, a representative of the prosecution shall be entitled to be present, but if the prosecution does not elect to be present at the time requested then the defense counsel may interview the witness without the presence of a representative of the prosecution.

(3) Defense Information Center shall have the right to make rules or regulations not inconsistent herewith for the purpose of facilitating the operations of this rule. Written copies of such rules or regulations shall be served on the prosecution and posted in Defense Information Center.

(4) Original Rule 23 and Rule 23 as amended on 3 June 1947 are superseded hereby.

(5) This rule shall be effective on and after the 14th day of January, 1948.

Rule 24. Effective Date and Powers of Amendment and Addition

These Rules shall take effect upon their approval by the Tribunal. Nothing herein contained shall be construed to prevent the Tribunal at any time in the interest of fair and expeditious procedure, from departing from, amending or adding to these rules, either by general rules or special orders for particular cases, in such form and on such notice as the Tribunal may prescribe.

Rule 25.

It is ordered that the foregoing rules be entered in the Journal of this Tribunal and that mimeographed copies be prepared sufficient in number for the use of the Tribunal and Counsel.

Rule 26. Defense Counsel; Representing Multiple Defendants;

Maximum Compensation

At no time shall defense counsel represent defendants, who have pleaded to the indictments, in more than two cases which are being tried concurrently in separate Tribunals. It is permissible, however, for the counsel to represent two or more defendants in the same case.



296 (12)

No adjournment or delay shall be granted any defendant upon the ground that his counsel is engaged in the trial of another case before a separate Tribunal.

In no event shall a defense attorney receive as compensation for his services in one or more cases an amount in excess of Seven Thousand (7 000) Reichsmark per month.



INTER-OFFICE MEMORANDUM

9 February 1948

SUBJECT: Commissioner's Third Report

TO: United States Military Tribunal VI

FILED 10 Feb. 1948

Secretary General

Copies to: Each of the Judges
Mr. Dutois (244)
Mr. Sprecher (244)

By an order dated at Nurnberg, Germany, 29 January, 1948, U.S. Military Tribunal VI directed its undersigned Commissioner, James G. Mulroy, to proceed to Vienna, Austria and there supervise the taking of oral testimony in reference to certain affidavits executed by Josef Johan and Franz Rotenberg, citizens of Austria and residents of Vienna.

The said order has been fully carried out.

Examination of the witnesses mentioned was commenced, as directed, upon the 5th day of February 1948, and completed the following day. Their testimony was recorded in written English and German by official Court Reporters, transcripts of whose notes are now being prepared.

The Commissioner's Second Report to this Tribunal, dated 14 January 1948, listed twenty witnesses who were then subject to cross-examination upon their several affidavits. Since that time through examination of witnesses in Nurnberg, withdrawal of affidavits and waivers of cross-examination, the number of witnesses remaining undisposed of has been reduced to eight, as follows:

Examinations:

Broad, Perry	17 January 1948
Zann, Alfred	17 January 1948
Johan, Josef	5 February 1948
Rotenberg, Franz	6 February 1948

Affidavits Withdrawn:

Allen, William	27 January 1948
Jakubik, Josef	"
Herynk, Josef	"
Nikolae, Nysali	"
Kacprzak, Franciszek	"
Kleckae, Franz	"

Cross Examination Saved:

Mrugowsky, Joachim
Jacobi, Walter

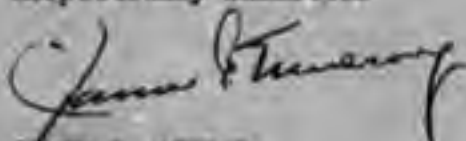
Witnesses still to be examined:

Address:

1. Mol, Jean van	Belgium
2. Kohn, Salomon	Berlin, Germany
3. Balandier, Rene	Paris, France
4. Bendal, Charles Sigismund	Paris, France
5. Treister, Noack	Prague
6. Klotolow, Moses	U.S.A.
7. Lotzmann, Ouenther (Prisoner)	Poland
8. Steischak, Leon	Poland

No further action by the Commissioner can now be undertaken until a determination is reached as to the availability of the remaining witnesses for examination at Nurnberg or elsewhere.

Respectfully submitted



JAMES G. MILROT
Commissioner

MILITARY TRIBUNALS

Eurnberg, Germany

UNITED STATES OF AMERICA

Against

Krauch et al.

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunals:

I, Dr. Helmut Dix attorney for _____

Dr. Christian Schneider, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Obermeister Ernst Peantek, Krefeld-Uerdingen, Weilerstr. 16

Occupation and last known location:

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Treatment and social conditions of foreign workers in the Leuna works;
Dr. Schneider's personality.

These facts are relevant to the defense for the following reasons:

To answer the Prosecution's contentions

Dr. Schneider's answer of 13 Feb 48:

A. H. Borchers

9 Febr 1948

(Date)

by order(s) Storkebaum

Signature of Defendant's Counsel

Decision of Tribunal

Approved 18
Presiding Judge.

DEFENSE NOTIFIED 15 Febr. 1948-
19 Feb 48 1370

294 0
FILED 12 Feb 48 with
SECRETARY GENERAL
for the Military Tribunals
Defense Center

VEREINIGTE STAATEN VON AMERIKA

gegen

Karl Krauch et al.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Hellmuth Dix, Verteidiger fuer Dr. Christian Schneider

, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Obermeister Ernst P e a n t e k, Krefeld-Uerdingen, Weilerstr. 16

Beruf- und ~~Wohn~~ bekannter Wohnort:

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

./.

Die oben benannte Person weiss ueber die folgenden Tatsachen Bescheid:

Die Behandlung und sozialen Verhaeltnisse der Fremdarbeiter
in den Leunawerken; Persoenlichkeit von Dr. Schneider

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

in Erwidierung des Vorbringens der Anklagebehoerde

Prosecution's answer of 13 February 1948.

No objection. D.A. SPRECHER.

Munich, den 9. II. 1948

(Datum)

H. Legner
1.A. (Dr. Eugenrecht Storkbaum)

Unterschrift des Verteidigers

Beschluss des Gerichtshofes

FILED 12 Feb 48
SECRETARY GENERAL
 for Military Tribunal
 Defense Center

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

Krauch et al.Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunal:

I, Dr. Walter Siewers attorney for
Dr. Georg von Schnitzler, hereby request that follow.
 (Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
 ant's behalf:

Name of Person desired as Witness:

Friedrich Flick

Occupation and last known Location:

Nurnberg, Justice Prison

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Gift of RM 400 000 from the IG in February 1933

No objection by Dr. Siewers.
12 Feb 48
A. A. Speck

These facts are relevant to the defense for the following reasons:

Par. 12 of the indictment9 Febr 1948

(Dato)

(s) Siewers

Signature of Defendant's Counsel

Decision of Tribunal

Presiding Judge.

Secretary General

RECEIVED

18 FEB 48

16 Feb. 1948

372

VEREINIGTE STAATEN VON AMERIKA

gegen

Carl Krauch und andere (Fall VI)

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Walter Siemers Verteidiger fuer Dr. Georg von Schnitzler

, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:Friedrich Flick

Beruf und Lebensbekannter Wohnort:

Nürnberg, Gefängnis.

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person weiss ueber die folgenden Tatsachen Bescheid:

Spende der J.G. von RM 400.000.- im Februar 1933Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:Ziffer 12 der Anklage.No objection by prosecution, 12 February 1948. D.A. SPRECHER.Nürnberg, den 9. Februar 1948.

(Datum)

SiemersUnterschrift des Verteidigers
(Dr. Siemers)Beschluss des Gerichtshofs

Vorsitzender Richter

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
11 FEBRUARY 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

FILED *12 Feb 1948*
Secretary General
for Military Tribunals
Defense Center

ORDER

The application of Dr. Erich Berndt, counsel for the Defendant Tor Meier, dated 2 February 1948, to have Peter Lameth, Frankfurt/M., Marbach-Weg 311, authorized to examine the Buna Documents in the possession of the military authorities at Frankfurt, is approved subject to the following conditions:

1. Said Peter Lameth shall not be entitled to the compensation usually accorded counsel for a defendant,

2. Said Peter Lameth shall obtain proper clearance from the military authorities responsible for security,

3. The examination of said documents by said Peter Lameth shall be in accordance with the rules and regulations governing the examination of such material by counsel for defendants, as established by the custodians thereof.

Curtis G. Shaker

CURTIS G. SHAKER,
Presiding.

Dated this 11th day of February 1948.

DEFENSE NOTIFIED

12 Feb 1948
PROSECUTION NOTIFIED

DR. ERICH BERNDT
RECHTSANWALT U. NOTAR
(16) FRANKFURT A. M.
STEINLESTRASSE 11
TELEFON 61727

296 @

(130) NURNBERG
JUSTIZPALAST ZIMMER NR. 508a
ANSCHRIFT GERTHOLDSTRASSE 5
BEI HERTLEIN

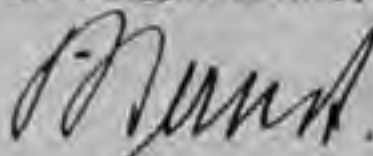
Nurnberg, 2 February 1948.

TO: Judge Shake
President of Court No. VI
Palace of Justice,

Nurnberg, Germany.

1. Referring to the answer of the prosecution on my application for Buna-documents of January 19th, 1948, in which the prosecution suggests "that defense counsel make his application more specific after he has done further research on the documents in Frankfurt" I herewith ask the permission for Mr. Peter L a m e t h, Frankfurt/M. to do this research work for Buna-documents for me.
2. The reason for this application is that this research work takes not only days but weeks and would keep me or my assistant absent from the court sessions for too long a period.
3. The personal data of Mr. Peter Lameth are the following:
 - a) Address: Frankfurt/M., Marbach-Weg 311
 - b) Birth: 25 October 1888 in Buerig, District Solingen
 - c) Identification card No. H 181 056 Frankfurt/M. 5 Sept. 1946.

Mr. Lameth is well acquainted with the Buna-documents.



DR. ERICH BERNDT

1375

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA
Against
KRAUCH and Others (Case VI)ANSWER TO APPLICATION FOR DOCUMENTS ON BEHALF OF
THE DEFENDANT TER MEER

TO: The Secretary General, Military Tribunals (281):

1. Answer is made to the application by Dr. Berndt, counsel for the defendant TER MEER, dated 13 January 1946, requesting production of "all Buna Documents except for the annual sets of 1936, 1937 and 1938".

2. The prosecution has no objection to the access of defense counsel to these documents. In fact the prosecution has made large numbers of the Buna documents available to Dr. Berndt, which probably accounts for the fact that his motion expressly excludes the "annual sets of 1936, 1937 and 1938". However, Dr. Berndt has access to the documents desired at Frankfurt and Griesheim. It is felt that defense counsel should weed out from "all the Buna documents" those which are of any possible importance before making a request that these documents, or copies thereof, be brought to Nurnberg. Moreover, the question of releasing originals, security regulations with respect to originals and reproducing copies of originals is either up to the Secretary General, ²⁾ to the I.G. Farben Control Center which has possession of the documents, or to some arrangement which defense counsel can make. ³⁾ Thus, without making a general objection, the prosecution suggests that defense counsel make his application more specific after he has done further research on the documents in Frankfurt.

By:


D.A. SPEECHER
Chief, Farben Trial Team
Nurnberg: 23 January 1946
Date

For:

 TELFORD TAYLOR
Brig. Gen. USA
Chief of Counsel

MILITARY TRIBUNAL

Frankfurt, Germany

UNITED STATES OF AMERICA

against

Krauch et al.

Defendant's Application for Document

TO: The Secretary General, Military Tribunal:

I, Dr. Berndt

attorney for

Fritz ter Meer

(Name of Defendant)

hereby request that the Tribunal require the production of the following document
to be used for the defense.

Identification of Documents

All Buna Documents except for the annual sets of 1936, 1937 and 1938

Last known location of Documents was information that may aid in its location

Frankfurt/W.-Griesheim

The document requested herein will be used to prove the following facts:

ter Meer's part in the Buna negotiations

These facts are relevant to the defense for the following reasons:

ter Meer's part in the Buna negotiations

13 January 1948

(Date)

(s) Dr. Berndt

Signature of Defendant's Counsel

Decision of Tribunal

21 Jan. 48 RE Berndt informed that he must send somebody to Frankfurt to pick out the volumes he requires. He agreed to do so.

Presiding Judge.

MILITÄR-GERICHTSHOF
Münster, Deutschland

VEREINIGTE STAATEN VON AMERIKA

Gegen

Krauch u. a.

Antrag des Angeklagten auf Herbeischaffung eines Dokumentes

an den Generalsekretär des Militärgerichtshofs:

Ich, Dr. Berndt Verteidiger fuer Fritz ter Meer
 (Name d. Angeklagten)

ersuche hiermit den Gerichtshof, die Herbeischaffung des folgenden
 Dokumentes fuer Zwecke der Verteidigung anzuordnen:

Kennzeichen des Dokumentes:

Alle BUNA-Akten ausgenommen die Jahrgaenge 1936, 1937, 1938

Letztbekannter Verwahrungsort des Dokumentes und Angaben die
 zur Auffindung dienen koennen:

Frankfurt/M-Griessheim

Das hier angeforderte Dokument soll zum Beweis folgender
 Tatsachen dienen:

ter Meers Anteil an den BUNA-Verhandlungen

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
 Verteidigung:

ter Meers Anteil an den BUNA-Verhandlungen

13. 1. 48
 (Datum)

Unterschrift des Verteidigers

Beschluss des Gerichtshofs

Vorsitzender Richter

NEUROPSYCHIATRIC SERVICE
317th (US) Station Hospital
United States Air Forces in Europe
Wiesbaden Military Post
APO 633 US Army

FILED 12 Feb 1948

Secretary General
of Military Tribunals
Nürnberg, Germany

6 February 1948 297 @

SUBJECT: Mental Status of Hermann Schmitz

TO: United States Military Tribunal VI, Sitting in the Palace of
Justice, Nürnberg, Germany.

1. In accordance with an order from the United States Military Tribunal VI in the case of the United States of America vs. Carl Krauch, et al., the defendant Herman Schmitz has been examined in this hospital.

2. Herman Schmitz gives evidence of physical and mental changes consequent upon the normal degree of senility at his age. General physical condition, the degree of arteriosclerosis, and certain changes in the skin are physical signs of early senility. From the point of view of mental examination, Hermann Schmitz has impaired memory for recent events, is easily confused by having to respond rapidly to various stimuli, has some emotional lability manifested mostly in minor and transient depressions when he is unable to solve his problems, and is easily fatigued. The patient is not psychotic nor otherwise seriously ill. He has not had hallucinations or delusions. His intellectual apparatus is moderately well maintained.

3. It is felt that Herman Schmitz is now able to recall past events, particularly those rather more remote, with good accuracy. His efficiency, however, can be improved if as little pressure as possible is put on him during questioning, if questions are put to him slowly, and he is given rather longer than would ordinarily be required to formulate his answers. Allowance should be made for emotional lability. This patient, may, from time to time, during his testimony, become depressed and weep. He will ordinarily quickly recover from these episodes and they need not be considered an indication for interrupting or terminating the questioning.

James Galvin
JAMES GALVIN
Major, MC
Chief NP Service

Joseph S. Jacob
JOSEPH S. JACOB
Captain, MC
NP Service

Harry J. Colgan
HARRY J. COLGAN
Captain, MC
Asst. Chief NP Service

PROSECUTION NOTIFIED

DEFENSE NOTIFIED

1379

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
29 JANUARY 1948

297 ②

THE UNITED STATES OF AMERICA :
:
- vs. - : Case No. 6
:
CARL KRAUCH, et al., :
:
Defendants. :

ORDER

The Tribunal on its own motion hereby designates

Major James Galvin, O-52052, MC
Captain Joseph S. Jacobs, O-1735879, MC
Captain Harry J. Colgan, O-1724920, MC

as a commission to examine the Defendant HERMANN SCHMITZ and to report the result of their examination to the Tribunal for its information.

The Tribunal especially desires a complete report as to the mental condition of said defendant, with particular reference as to whether his state of mind is such that he can make a defense and, if he so desires, testify as a witness in his own behalf. In that connection, the Tribunal wishes to be advised as to the findings of the commission from a medical point of view, leaving it to the Tribunal to draw the ultimate inferences as to whether the defendant can make a defense and testify if he so desires.

In order to facilitate said examination, authority is hereby granted for the removal of said defendant from the prison at Nurnberg, to the 317th Station Hospital at Wiesbaden. The Secretary General is requested to take the necessary steps for the removal of the defendant to said hospital subject to such security measures as the proper military authorities may deem to be necessary and proper under the circumstances. Said defendant is to be returned to the Nurnberg prison upon the completion of said examination or the further order of the Tribunal.



Dated this 29th day of January 1948.

C E R T I F I C A T E

297 G

I, JOHN E. RAY, Colonel, PA, Secretary
 General of the United States Military Tribunals, DO HEREBY
 CERTIFY that the foregoing is a true and exact copy
 of an original document now in my custody, which original
 document is a part of the official files and records of
 the United States Military Tribunals, of which I am the
 lawfully designated custodian.

Dated: 30 January 1948

JOHN E. RAY, Colonel, PA
 Secretary General
 United States Military Tribunals

By Barbara Schinner Mandell
 Chief of Archives
 Office of Secretary General for
 United States Military Tribunals



SD Form No. 3
 6 June 1947

MILITARY TRIBUNALS

Nurnberg, Germany

Krauch et al.

UNITED STATES OF AMERICA

Against

Krauch et al.

FILED 13 FEB 48 with
SECRETARY GENERAL
for Military Tribunal
Defense Counsel

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunal:

I, Dr. Werner Schubert attorney for

Dr. Ernst Buergin hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Weeber, Karl Hermann

Occupation and last known location:

Diplom Ing., living at Sehladern/Sieg

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Production and processing of magnesia with the IG Bitterfeld;
construction of magnesia factories abroad with the help of IG;
exchange of experiences with foreign magnesia firms.

J. D. Sprecher

Prosecution's answer of 13 February 1948 - No objection. D.A. SPRECHER.

These facts are relevant to the defense for the following reasons:

The Prosecution charges IG with the production of magnesia
for the preparation and carrying through of aggressive wars
and the suppression of magnesia production in foreign countries

11 Feb 1948
(Date)

Dr. Schubert

Signature of Defendant's Counsel

Decision of Tribunal

*Approved
Karl H. Blake*

Presiding Judge.

RECEIVED 19 FEB 48

NOTIFIED

1382 July 1948

MILITÄRGERICHTSHOF
Nürnberg, Deutschland

VEREINIGTE STAATEN VON AMERIKA

gegen

Krauch u.a.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Werner Schubert Verteidiger fuer

Dr. Ernst BUECHER, beantrage hiemit, dass die
(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Weeber, Karl Hermann

Beruf und Geburtsort: Wohnort:

Dipl.Ing., wohnhaft in Schladerm /Sieg

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person weiss ueber die folgenden Tatsachen Bescheid:

Erzeugung und Verarbeitung von Magnesium bei I.G. Rittorf;

Bau von Magnesiumfabriken im Ausland mit Unterstuetzung der I.G.; Erfah-
rungetausch mit auslaendischen Magnesiumfirmen.

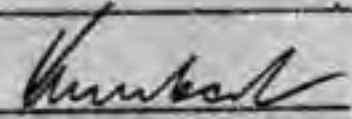
~~Prosecution's answer of 13 February 1946. NO OBJECTION. D.A. SPRACHER.~~

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Die Anklage wirft der I.G. Erzeugung von Magnesium zur Vorbereitung
und Fuehrung von Angriffskriegem vor, ferner die Unterdrueckung der Mag-
nesiumproduktion in auslaendischen Staaten.

Nürnberg, den 11. Februar 1946

(Datum)


Unterschrift des Verteidigers

Beschluss des Gerichtshofs

1383

Vorsitzender Richter

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, WASHINGTON, DISTRICT OF COLUMBIA
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 12 FEBRUARY 1948, IN CHAMBERS

THE UNITED STATES OF AMERICA

- vs. -

CARL BRADEN, et al.,

Defendants.

FILED *16 Feb 1948* with
Secretary General
(Case No. 4 T)
Defense

On 3 February 1948 Tribunal approval was given for the production of Burkert Exhibit No. 51, Burkert Document No. 683, (Case No. 5), for the defendant Christian Schneider, which exhibit is a part of the official files and records of the United States Military Tribunals in the Court Archives.

Application having been made on 12 February by counsel for the defendant Schneider for approval to withdraw the aforementioned exhibit from the Court Archives for the purpose of having a photocopy made,

IT IS ORDERED that said application be granted.

Samuel B. Haste
Presiding Judge

PROSECUTION NOTIFIED

16 Feb 1948 JOL

DEFENSE NOTIFIED

Dr. Hellmuth Dix
Defense Counsel
Case No. 6

299 ③
Hamburg, 12 February 1948

To: Presiding Judge, Tribunal No. VI

SUBJECT: Photostating of Burkart Exhibit No. 51, Document No. 683.

On 3 February approval was given for the production of Burkart Document No. 683, Exhibit No. 51 (Case No. 5) to the defense of Christian Schneider.

It is now necessary to withdraw abovementioned exhibit from Court-Archives for the purpose of having a photostat made. It is requested that the approval of the tribunal be given for this purpose.

Dr. Ruppert Storkemann

(Dr. Ruppert Storkemann)
Asst. Def. C.
for Dr. Hellmuth Dix

Approved.

Curtis C. Shale
CURTIS C. SHALE,
Presiding Judge
Military Tribunal VI.

12 February 1948.

UNITED STATES MILITARY TRIBUNAL
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
AS A COURT OF MILITARY TRIBUNAL VI
HELD 11 FEBRUARY 1948, IN SESSION

THE UNITED STATES OF AMERICA
- v -
CARL WAGNER, et al.,
Defendants.

FILED *16 Feb 48* with
Secretary General
for ~~1948~~ Tribunals
Case No. 6 - 1st

In considering the request of Dr. Otto Belte, counsel for defendant Heinrich Nowka, that he (Dr. Belte) be excused from attending court sessions for the period from 16 February until 1 March 1948, and statement that the interests of the defendant Heinrich Nowka will be looked after by Dr. Schilder during such absence,

IT IS ORDERED that said request be granted.

Quentin B. Gass
Presiding Judge

PROSECUTION NOTIFIED

16 Feb 1948 HOS

DEFENSE NOTIFIED

Dr. Dr. Otto Helte

7 Febr 1948

N u e r n b e r g
Maximilianstrasse

To

The Defense Center
Palace of Justice

N u e r n b e r g

Subject : Defense of defendant Prof. Heinrich Hoerlein, Case VI

I will be absent from Nurnberg from 16 Febr until 1 Mar 1948 owing to defense activities for Prof. Dr. Heinrich Hoerlein.

During my absence Dr. Bilcher will deputise for me and look after the interests of my client Prof. Hoerlein.

I ask you to kindly excuse^{me} from attending the sessions during this period.

(s.) Dr. Otto Helte

Granted
Günther J. Stank
Presiding Judge
Trial Chamber VI

11 Febr 1948-

Dr. Dr. Otto Helte
Nürnberg
Maximilianstrasse 27

Nürnberg, den 7. Februar 1948

An
Defense Center
Justizgebäude Nürnberg.

Betr. Verteidigung des Angeklagten Prof. Heinrich Hoerlein, Fall VI.

In der Zeit vom 16.2.1948 bis 1.3.48 bin ich aus Gründen der
Verteidigung des Angeklagten Prof. Dr. Heinrich Hoerlein gezwungen, von Nürnberg
abwesend zu sein.

In meiner Abwesenheit wird mich Herr Dr. Silcher vertreten und die
Interessen des Angeklagten Prof. Hoerlein wahrnehmen.

Ich bitte zu genehmigen, dass ich in dieser Zeit den Sitzungen fern-
bleibe.


(Dr. Otto Helte)

Verteidiger

301

OFFICE OF MILITARY GOVERNMENT (US)
SECRETARIAT FOR MILITARY TRIBUNALS
NURNBERG, GERMANY
APO 696 A

FILED 16 Feb. 1948
BBM
Secretary General
for Military Tribunals
16 February 1948
Germany

OFFICE OF THE
SECRETARY GENERAL

C E R T I F I C A T E

On the 6th of February 1948 I conferred with Mr. Camill Sachs, President of the Landgericht Bavaria, re the Achenbach case. The Order of the Tribunal No. VI, dated 5 February 1948, was read and discussed. Mr. Sachs stated definitely that his office must refuse the request of the Tribunal embodied in the above-mentioned Order, to wit: to withhold service of the warrant of arrest of Ernst Achenbach until such time as he has discharged his duties in the trial of the case now pending before the Tribunal.


JOHN E. RAY
Colonel, Field Artillery
Secretary General

301

Munich
Koniginstr. 11a
Telephone 74221-23
74315, 31208

10.2.1948

Office of Military Government US
Secretary for Military Tribunals
Office of the Secretary General
Attention: John E. Ray, Colonel, Field Artillery

FILED 16 Feb. 1948
H.S.
Secretary General
for Military Tribunals
Nürnberg, Germany

Nurnberg

Re: Dr. Ernst Achenbach, attorney, Essen

--2 Enclosures

1. On the ground of Art. 48 of the Liberation Law of 5.3.1946, the order of arrest (Haftbefehl) a copy of which is enclosed, was issued by the Spruchkammer VI for the municipal district of Nurnberg. On the same day, the police quarters 17 Fuertherstr. 176 received the order to arrest Dr. Achenbach and to hand him over to the Nurnberg-Langwasser Camp. Dr. Achenbach, however, could not be found in Nurnberg. The order of arrest remains in force.
2. On the ground of Art. 3 of the Liberation Law, every German has to fill in and to submit a questionnaire, if he has his residence or quarters or his occupation or assets in the American occupied zone of Germany. These persons have to report within two weeks after the fulfillment of the above conditions, Paragraph 1 of the regulation of 4 April 1946 regarding the duty of reporting. The attorneys employed with the Military Tribunals have their quarters and their occupation in Nurnberg. As many of the attorneys did not comply with the regulations, I requested the president of the "Berufungskammer" Nurnberg in October 1947 to ask all German lawyers and assistants to submit a questionnaire or to submit the decision of the denazification board. On this, Dr. Achenbach submitted an authorization of the Military Government Legal Branch of Nordrhein-Westfalen, according to which he is authorized beginning 1.11.1946 to exercise the activity of an attorney with the "Land und Amtsgericht, Essen" and to appear as defense counsel before the Military Government Tribunals in the Dueseldorf/Muenster governmental district. This decision of the denazification board is not valid in the American Zone, as the classification into the groups I to V was not made by the competent office. Because of his stay and his activity it was Dr. Achenbach's duty to submit his questionnaire to the competent Spruchkammer. Dr. Achenbach did not comply with this duty. According to paragraph 10 of the first regulation regarding duty of reporting, he is subject to punishment.
3. Dr. Achenbach did not submit an appeal against the order of arrest. According to Art. 52 of the Liberation Law, the Bavarian State Minister for special tasks or the cassation court in Munich appointed by him is competent as to a decision of an appeal.
4. Dr. Achenbach as official of the German Embassy in Paris is suspected of having participated in the extermination plans for Jews in France.

/s/ Camill Sachs
President of the Landgericht
Former State Secretary

AYERISCHES STAATSMINISTERIUM

FÜR SONDERAUFGABEN

St.S./B./St./48

(MIT ANTWORTUNG MITTE ANGEHEN)

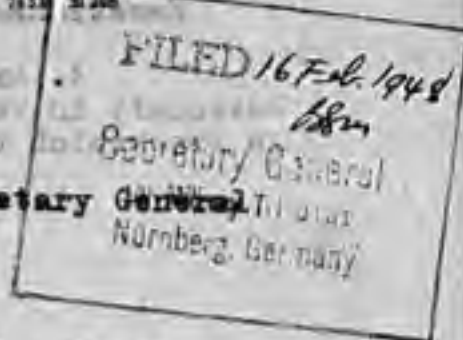
Durch Biloten!

MÜNCHEN, DEN
KÖNIGSTR. 11A
TELEFON 7427

2.
10.5.1948

Office of Military Government (US)
Secretariat for Military Tribunals
Office of the Secretary General
z.Hdn.John E.Ray -Colonel, Field Artillery-Secretary General

Nürnberg



Betreff: Rechtsanwalt Dr.Ernst A c h e n b a c h , Essen

mit 2 Beilagen:

1. Auf Grund des Art.40 des Befreiungsgesetzes v.5.3.46 ist der in Abschrift beiliegende Festnahmebefehl (Haftbefehl) von der Spruchkammer VI für den Stadtkreis Nürnberg erlassen. Das Polizei-Revier 17 Fürtherstr.176 erhielt am gleichen Tage die Anweisung, Dr.Achenbach zu inhaftieren und in das Lager Nürnberg-Langwasser einzuliefern. Dr.Achenbach konnte jedoch in Nürnberg nicht aufgefunden werden. Der Haftbefehl besteht weiter.

2. Auf Grund des Art.3 des Befreiungsgesetzes hat jeder Deutsche einen Meldebogen auszufüllen und einzureichen, sofern er in der amerikanisch-besetzten Zone Deutschlands seinen Wohnsitz oder seinen Aufenthalt hat, oder beschäftigt ist, oder Vermögen hat. Diese Personen unterliegen der Meldepflicht innerhalb zwei Wochen nach Eintritt der Voraussetzungen. §1 der Durchführungsverordnung über die Meldepflicht v.4.April 1946. Die bei den Militärgerichtshöfen beschäftigten Anwälte haben ihren Aufenthalt in Nürnberg und sind in Nürnberg beschäftigt. Da viele der Rechtsanwälte ihren Verpflichtungen nicht nachgekommen sind, habe ich im Oktober 1947 den Herrn Präsidenten der Berufungskammer Nürnberg beauftragt, sämtliche deutsche Verteidiger und ihre Hilfskräfte aufzufordern einen Meldebogen einzureichen, oder ihre Denazifizierungsbescheide vorzulegen. Daraufhin hat Dr.Achenbach eine Ermächtigung der Militärregierung Legal Branch von Nordrhein-Westfalen vorgelegt, wonach er ab 1.11.46 ermächtigt sei, die Tätigkeit eines Rechtsanwalts beim Land- und Amtsgericht Essen auszuüben und als Verteidiger vor den Militärregierungs-Gerichten im Regierungsbezirk Düsseldorf/Münster aufzutreten. Dies ist kein in der Amerikanischen Zone gültiger Denazifizierungsbescheid, da nicht von der zuständigen Stelle eine Einstufung in die Gruppen I - V erfolgt ist. Infolge seines Aufenthaltes und seiner Tätigkeit war Dr.Achenbach verpflichtet, bei der zuständigen Spruchkammer seinen Meldebogen einzureichen. Dieser Verpflichtung ist Dr.Achenbach nicht nachgekommen. Er hat sich hiermit strafbar gemacht gemäß §10 der 1.Durchführungsverordnung über die Meldepflicht.

3. Gegen den Festnahmebefehl hat Dr.Achenbach keine Beschwerde eingereicht. Für Bescheidung einer Beschwerde ist zuständig der Bayerische Staatsminister für Sonderaufgaben gemäß Art.52 des Befreiungsgesetzes oder der von ihm eingesetzte

deutsch
nden

1911
1912
1913

1914
1915

1916
1917
1918
1919
1920

1921
1922
1923
1924
1925
1926
1927
1928
1929
1930

1931
1932
1933
1934
1935
1936
1937
1938
1939
1940

1941
1942
1943

13333333

Angehöriger

Festnahmebefehl

Der Rechtsanwalt Hr. Ernst A o h n h a n n aus Eichen, Teelger-
strasse 34, 8. St., in Würzburg, Wandlstrasse 108, ehemals
Gesandtschaftsreferat bei der deutschen Botschaft in Paris,
ist öffentlich verhaftet, in seinen Eigenschaften als Beamter des Auswärtigen Dien-
stes (Teil A/X/II/1 des Anhangs zum Gesetz v. 9.3.46) sich eines
Erischverbrechens im Sinne des Gesetzes Nr. 10 der Alliierten
Extraktv. v. 28.12.45 schuldig gemacht zu haben, dass
er an der während der deutschen Besetzung Frankreichs gegenüber
der jüdischen Zivilbevölkerung begangenen Gewalttaten unange-
hörigen Anteil hatte (Teil A/X/II/1 des Anhangs zum Gesetz).

Es gilt daher die zur Überlegung als Haustatverdacht gegeben

Nach dem Gesetz vom 1. März 1942 zur Befreiung von Nachschüssen und Mithäusern

Gesetz vom 1. März 1942 zur Befreiung von Nachschüssen und Mithäusern

Würzburg-Langwasser

Der Verdacht wird gegeben, weil mit Rücksicht auf die zu erwartenden har-
ten Strafmassnahmen Fluchtverdacht gegeben ist.

Würzburg, den 15. Jan. 1948

Die Spruchkammer VI für den
Stadtkreis Würzburg

gus. Weiss



Dr. C. H. d. A.

(Lang)

Der Vorsitzende

Kassationshof in München.

4. Dr. Achenbach ist verdächtigt als Beamter der deutschen Botschaft in Paris sich an den Antragsgeplänen an den Juden in Frankreich beteiligt zu haben.

(Handwritten signature)
**Landgerichtspräsident
Staatsanwalt a.D.**

2. Anlagen.

1. Der Grund des Art. 3 des Strafgesetzbuchs ist, dass eine Person, die in einem anderen Lande eine Straftat begangen hat, in Deutschland straflos bleibt, wenn sie in dem anderen Lande nicht bestraft wurde. Dies ist der Fall, wenn die Person in dem anderen Lande nicht als Straftäter erkannt wurde oder wenn die Straftat in dem anderen Lande nicht als Straftat angesehen wurde. In diesem Fall ist die Person in Deutschland straflos, wenn sie in dem anderen Lande nicht bestraft wurde.

2. Gegen den Festnahmeseintrag des Dr. Achenbach keine Beschwerde eingelegt. Der Festnahmeseintrag ist zu löschen. Der Festnahmeseintrag ist zu löschen, wenn die Person in dem anderen Lande nicht bestraft wurde oder wenn die Straftat in dem anderen Lande nicht als Straftat angesehen wurde. In diesem Fall ist die Person in Deutschland straflos, wenn sie in dem anderen Lande nicht bestraft wurde.

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

Krauch et al.

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunals:

I, Dr. G. Boettcher attorney for

Carl Krauch, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Euse Fritzsche

Occupation and last known location:

formerly with the Ministry of Propaganda, now Justice Jail, Nurnberg

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

General knowledge in Germany about Hitler's intentions of aggressive war.

These facts are relevant to the defense for the following reasons:
To refute count I of the indictment,

17 February 1948

(Date)

(s) Dr. Boettcher

Signature of Defendant's Counsel

Decision of Tribunal

PROSECUTION AND
DEFENSE NOTIFIED

481393

28 Feb 1948

Presiding Judge.

302 0
FILED 18 Feb 48
SECRETARY GENERAL
for Military Tribunals
Defense Counsel

Case 6

Verhandlung
VERMINUTE STANTEN VON AMERIK.

gegen
Krauch u. Gen.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. A. Buchner Verteidiger fuer Gert Krauch

, beantrage hiermit, dass die

(Namen des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

HERR FRITZSCH

Beruf und Lebensbekannter Wohnort:

früher Propagandaministerium, jetzt Gefängnis MÜNCHEN

Weitere Angaben die zur Auffindung des benannten Zeugen dienen können:

Die oben benannte Person weist über die folgenden Tatsachen Bescheid:

Allgemeine Kenntnis in Deutschland über Hitlers Angriffe

Kriegsberichte

Diese Tatsachen sind aus folgenden Gründen erheblich fuer die
Verteidigung:

Widerlegung Punkt I der Anklage

Prosecution's answer of 24 February 1948

No objection. D.A. SPRACHER.

17. Februar 1948
(Datum)

Dr. A. Buchner
Unterschrift des Verteidigers

Beschluss des Gerichtshofs

FILED 19 Feb 48 with
SECRETARY GENERAL
for the
Defense Counsel

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

Karl Krauch et al.

Defendant's Application for Process for a Witness

TO: The Secretary-General, Military Tribunal:

I, Dr. Karl Hoffmann attorney for

Dr. Otto Ambros hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Dr. Berthold Schnell

Occupation and last known location:

Chemist Ludwigshafen on Rhine, Wochlerstr. 21

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Otto Ambros' position in the field of peace-time chemistry and his
scientific fame in this field.

These facts are relevant to the defense for the following reasons:

To refute count I of the indictment

Prosecution's answer of 24 Feb. 1948.
No objection. K. A. Dehn

Nurnberg 19 Febr 1948
(Date)

(s) Dr. Hoffmann
Signature of Defendant's Counsel

PROSECUTION AND
DEFENSE NOTIFIED

Decision of Tribunal

1395

Presiding Judge.

Case 6

78 Feby 1948

Approved
Barthelme

552
MILITÄRGERICHTSHOF
Nürnberg, Deutschland

VEREINIGTE STAATEN VON AMERIKA

gegen
Karl Krauch n.s.

Antrag eines Angeklagten zur Zeugenvernehmung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Karl Hoffmann Verteidiger für Dr. Otto Ambros

, beantrage hiermit, dass die
(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Dr. Berthold S o h n e l l

Beruf und jetzige Wohnort:
Chemiker, Ludwigshafen a. Rhein, Wöhlerstr. 23

Weitere Angaben die zur Auffindung des benannten Zeugen dienen können:

Die oben benannte Person weist über die folgenden Tatsachen Bescheid:

Stellung von Otto Ambros auf dem Gebiet der
Friedenschemie und seine wissenschaftliche
Bedeutung auf diesem Gebiet.

Diese Tatsachen sind aus folgenden Gründen erheblich für die
Verteidigung:

Widerlegung des Anklagepunktes I

Prosecution's answer of 24 February 1948

No objection. D.A. SPRECHER.

Nürnberg, den 19. Febr. 1948.

(Datum)


Unterschrift des Verteidigers

Beschluss des Gerichtshofes

Vorsitzender Richter

1396

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.)
MILITARY TRIBUNALS
Office of the Secretary General

FILED 24 Feb 48
Secretary
of Military
Hornberg, Germany

ATTENDANCE OF WITNESSES IN OPEN COURT

COURT

NAME OF WITNESS	TYPE OF WITNESS	DEFENDANT	TIME CALLED	TIME DISM'D
STONE, John L.	Witness (Prosecution)	AMERICAN	0930 hrs	

APPEARED 18, 19, 20, 24 Feb 1948

TESTIFIED IN DIRECT, CROSS & REDIRECT
EXAM AS PART OF HIS CASE IN CHIEF.

John L. Stone
Test Sec Gen
Fit VI

SAMUEL L. METCALPE
Colonel INF
Marshal, Military Tribunals

MT Form 11
8 Nov 46

1397

Case 6

205

①

1st Ind.

OFFICE OF MILITARY GOVERNMENT (US) SECRETARIAT FOR MILITARY TRIBUNALS,
APO 696-A, U.S. ARMY, 4 February, 1948

TO: OFFICE OF MILITARY GOVERNMENT (US), LEGAL DIVISION, APO 742, U.S. ARMY
(ATTN: MR. MAUTZ)

1. Forwarded herewith is a request of assistant defense counsel,
Dr. Walter Bachem for clearance to Norway and funds to defray expenses.
The requested travel is in connection with the Tribunals at Nurnberg.

2. Your attention is invited to the second paragraph of the Court
Order dated 13 January, 1948, a copy of which is attached hereto.

s/ John E. Ray
JOHN E. RAY
Colonel, Field Artillery
Secretary General

2 Incls:
Ltr dtd 28 Jan 48
Cpy Court Order dtd 13 Jan 48

Telephone: Nurnberg 61281

2nd Ind.

FILED 24 Feb 1948

Secretary General
in Charge of Trials
Nurnberg, Germany

LEGAL DIVISION
OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U.S.) APO 742,
U. S. ARMY 17 February 1948

TO: Office of Military Government (US) Secretariat for Mil-
itary Tribunals, APO 696-A, U.S. Army

1. Reference is made to basic communication and in-
closures thereto. It is regreted that at the present time
no authority exists in OMSGUS to authorize defrayment of ex-
penses of the nature which would be incurred by Dr. Walter
Bachem in travel to Norway.

s/ Ray

305
(2)

Subj: Request for Travel of German National to Norway,
Office of Military Government for Germany (US) 17 Feb 48

2. This office will be glad to transmit interrogatories for the purpose of taking depositions to the appropriate individuals in Norway or such other place as may be desired.

s/ John M. Raymond
John M. Raymond
Colonel GSC
Associate Director

Telephone BERLIN 42366

24.2.48 —Copy of the foregoing 1st and 2nd Indorsements furnished to defense counsel Dr. Walter Bachem for information.

Major Robert G. Schaefer, FA
Chief, Defense Center

By:

Beatrice E. Benford
Beatrice E. Benford, Secy.

305
③

Dr. WALTER BACHEM
Assistant Defense Counsel
- Case 6 -
Fuernberg
Palace of Justice

Fuernberg, 28 January, 1948

To:
Major Robert G. Schaefer,
Chief Defense Center,
Military Tribunal,
Fuernberg,
Palace of Justice

Subject: Trip of Dr. Walter BACHEM to Norway for the purpose
of Interrogating Witnesses and Procuring Documents.

1. Reference is made to the Order of Military Government
Tribunal VI, dated 13 January 1948, regarding the proposed trip
of Dr. Walter BACHEM to Norway, Inclosure No 1.

2. I herewith apply for a travel order, visa etc. to
Oslo (Norway) for the earliest possible date. I believe that
my trip will not last longer than 2-3 days. My residence in
Norway will be Oslo, where I intend to visit the following:

Mr. Sjarne ERIKSEN, Oslo
Sir Thomas FRANKLEY (address not known yet)
Professor BACHE-WIIG, Oslo
Arne EDIN, Oslo
Otto FALKENBERG, Oslo

furthermore : Norsk Hydro Elektrisk-Kvaelstof A/S, Oslo,
for the purpose of checking documents.

3. Since no own funds are available to pay the expenses
occurring, I would appreciate your assistance in this respect,
so as to enable me to make this extremely urgent trip.

- 1 -

ae6

305
(4)

4. Personal data are as follows:

Name: Dr. WALTER BACHEN

born: 15 Jan 1906 in Frankfurt on Main

married

Residence: Wuerzburg, Kornstrasse 3

Kennkarte: H 288430

Never been member of NSDAP or any affiliations

4. May I point out that it will be necessary for me to travel as soon as possible. The defendant who is mostly concerned with my trip is scheduled to be in the stand from approximately 10 March on, and I must have accomplished my trip by then.

s/ Walter Bachem
(Dr. WALTER BACHEN)

1 Incl.

305
(5)

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, WURNBERG, GERMANY
13 JANUARY 1948

Stamp: Filed 14 Jan 1948 with
Secretary General
for Military Tribunals
Defense Center

THE UNITED STATES OF AMERICA :
:
- vs. - :
CARL KRAUCH, et al., :
: Defendants. :

Case No. 6

ORDER

Upon consideration of the petition of Dr. Herbert Math, Counsel for the Defendant MAI ILGNER, it is ordered that the proposed trip of Dr. Walter Bachem to Norway for the purpose of interrogating witnesses and procuring documents for use in the defense of said defendant is hereby approved by the Tribunal.

The Tribunal deems that it has no jurisdiction, however, to authorize the issuance of travel orders, visas or expense money for said proposed trip, although the Tribunal has no objection to such being done by any appropriate governmental agency.

/s/ Curtis G. Shake
CURTIS G. SHAKE,
Presiding.

Dated this 13th day of January 1948.

Stamp: Defense notified
15 Jan 1948 LOR
Prosecution notified

BUETEFISCH- I.G. CASE - SICK IN BED.
DIAGNOSIS. COLD.

25.2.48.



H. H. H. H.

1403

in 6

1403

307

(Date) 21. Februar 1948

U.S. vs. Kranich et al.

Notice of Witnesses

TO BE CALLED BY THE DEFENSE

FILED 25 Feb 48
ENK
Secretary General
of Military Division
Nürnberg, Germany

Notice is hereby given that the Defendant Christian
Schneider-----may call the witness named below to
testify concerning the matters hereinafter stated.

Name	:	Dr. Johann Meisen
Nationality	:	deutsch
Address	:	Krafeld-Jardingen, am Bettgen 32
Position	:	Direktor
Nature of Testimony	:	Die Person Dr. Schneiders, die Verhältnisse der Produktion und der Arbeitskräfte in Leuna und die Tätigkeit der Sparte I in Leuna.

The person of Dr. Schneider, the conditions of
the production and the workers in Leuna and the
work of Sparte I in Leuna.

Received:

Date _____ Time _____

Dr. Apprecht Storkbeum
(Dr. Apprecht Storkbeum)
as Def. C.

Test. Filed 24 Feb 48

Maximilian Vinner
Assistant Secretary General
Tribunal VI

(Date) 21 Februar 1948

U.S. vs. Krauch et al.

Notice of witnesses

TO BE CALLED BY THE DEFENSE



Notice is hereby given that the Defendant Christian
Schneider may call the witness named below to
 testify concerning the matters hereinafter stated.

Name : Dr. Hans Easing
 Nationality : Deutsch
 Address : Krefeld-Uerdingen, Dueseldorferstr. 24
 Position : Chemiker
 Nature of Testimony : Als Person Dr. Schneiders, die Verhältnisse
 der Produktion und der Arbeitskräfte in Leuna
 und die Tätigkeit der Sparte I in Leuna.

The person of Dr. Schneider, the conditions of
 the production and the workers in Leuna and the
 work of Sparte I in Leuna.

Received:

Date _____ Time _____

H. Rupprecht Sterkebaum
 (Dr. Rupprecht Sterkebaum)
 Ass. Def. O.

Testified 24 Feb 48

Norman De Vries
 Assistant Secretary General
 Tribunal VI

(Date) 21. Februar 1948U. S. vs. Kranck et al.

FILED 25 Feb 48
 Secretary General
 of the War Relocation
 Authority
 Nurnberg, Germany

Notice of Witnesses

TO BE CALLED BY THE DEFENSE

Notice is hereby given that the Defendant Christian
 Schneider may call the witness named below to
 testify concerning the matters hereinafter stated.

Name : Ernst Fekutek
 Nationality : deutsch
 Address : Krefeld-Uerdingen, Weilerstr. 16
 Position : Obermeister
 Nature of Testimony : Die Behandlung und die sozialen Verhältnisse
 der Fremdarbeiter in den Leunawerken; Persön-
 lichkeit von Dr. Schneider.
 Treatment and social conditions of the foreign
 workers in the Leuna plants; personality of Dr.
 Schneider.

Received:

H. Augustin
 (Dr. Augustin Storkmann)
 Ass. Def. C.

Date _____ Time _____

Test. Pich 25 Feb 48

Maurice A. Vigna
 Assistant Secretary General
 Tribunal V

(Date) 21. Februar 1948

U. S. vs. Krenz et al.

FILED 25 Feb 48

Secretary General

in Military District

Wormburg, Germany

Notice of Witnesses

TO BE CALLED BY THE DEFENSE

Notice is hereby given that the Defendant Christian

Schneider

may call the witness named below to testify concerning the matters hereinafter stated.

Name : Dr. Albrecht Weiss

Nationality : deutsch

Address : Weidberg, Moltkestr. 21

Position :

Nature of Testimony : Person und Stellung Dr. Schneiders in der I.G., die Lebensbedingungen der Arbeitskräfte der I.G.

Person und position of Dr. Schneider in the I.G. The living-conditions of I.G.-workers.

Received:

Dr. Albrecht Weiss

(Dr. Albrecht Weiss)

Acc. Def. G.

Date _____ Time _____

Test. Recd 25 Feb 48

Maximilian Voss
Assistant Secretary General
Tribunal VII

MILITARY TRIBUNALS
UNITED STATES OF AMERICA
Against

311
FILED 26 Feb 48 Sg
Secretary General
for: ~~Nuremberg, Germany~~
Defense Center
Case No. 4
Mil. Tribunal 17

~~Frank~~ and others

ORDER APPOINTING DEFENSE COUNSEL

Fritz Gajewski, one of the above-named defendants,
having requested this Tribunal that **Dr. Wolfram von Helldorff**
whose address is **Nuremberg, Farnthorstr. 103**, be en-
tered and approved on the records of Military Tribunals as his
lawful attorney.

IT IS ORDERED that the said **Dr. Wolfram von Helldorff** be,
and he hereby is, approved as attorney for said **Fritz**

Gajewski to represent him with respect to the charges
pending against him under the indictment filed herein; effective
1 February 1948.

Dated:

25 Feb 1948

Linn E. Shaker
Presiding Judge

Form MT No-1

PROSECUTION NOTIFIED

DEFENSE NOTIFIED
26 Feb 48 Sg

Dr. Wolfram von Metzler

311
Nuernberg, February 19, 1948.
Justice Palace
Room 539

To: Military Tribunal No. VI
for Case No. VI,

N u e r n b e r g.
Justice Palace

Through: The Secretary General.

Re: Defense Counsel for Fritz G a j e w s k i.

After having been informed by the Secretary General that the Bavarian Ministry has definitely refused to suspend the warrant of arrest issued against Dr. Ernst A c h e n b a c h, former counsel for Fritz Gajewski, and accordingly the Military Tribunal No. VI has ruled the appointment of a new defense counsel for Fritz Gajewski, I beg to enclose herewith an

application for the appointment of myself
as defense counsel for Fritz Gajewski.

I beg to point out that this application corresponds to the wishes of Fritz Gajewski and of Dr. Ernst Achenbach.

I would be grateful if the appointment could be made effective from February 1, 1948, as I have been engaged in the preparation of the case of Fritz Gajewski since that date and Dr. Achenbach has been cancelled as counsel already some time ago.

Furthermore I would appreciate if for good order I could be furnished with a copy of the answer of the Bavarian Ministry.

encl.


(Dr. v. Metzler)

MILITARY TRIBUNALS
UNITED STATES OF AMERICA
Against

Nuremberg, Germany
Case No. VI
Mil. Trib. No. VI

Krauch and others

APPLICATION FOR APPROVAL AS DEFENSE COUNSEL

Come now Dr. Wolfram von Metzler and states to the Tribunal that Fritz Gajewski, one of the above-named defendants, has requested that he represent him in the matter of the United States of America vs. Krauch, et. al.

THEREFORE, Dr. W. von Metzler makes application to the Tribunal for his approval as attorney for Fritz Gajewski to represent him with respect to the charges pending against him under the above-named indictment.

Dated: February 18, 1948.

Dr. Metzler

UNITED STATES OF AMERICA

Against

CASE NO. 6

Military Tribunal VI

Krauch et al

Defendants

REQUEST FOR COUNSEL TO BE ENTERED OF RECORD

To the Secretary General, Military Tribunals

Palace of Justice, Nurnberg, Germany

I, Fritz Gajewski, of Palace of Justice Prison, a defendant in the above styled cause, respectfully request that the name of Dr. Wolfram von Metzler whose address is Nurnberg, Puerttherstr. 103, and who is a person qualified under existing regulations to conduct cases before the courts of my country, be entered and approved on the records of Military Tribunals as my lawful attorney to represent me as a defendant on the charges pending against me under the indictment filed in the above-styled cause.

Dated at _____ this 19 day of Feb. AD 1948,

s/ Fritz Gajewski X

MILITÄRGERICHTSHOF

FÜRTH, DEUTSCHLAND

Die vereinigten Staaten von Amerika
gegen
K r a u c h U.A.

Fall Nr. VI

Militärgerichtshof
Fr. VI

ERSUCHEN EINES ANWALTES UM VERTEIDIGER
(in die Akten aufnehmen)

An den Generalsekretär, Militärgerichtshof,
Justizpalast,
Münchberg, Deutschland

Ich, Fritz G a j e w s k i, ~~am~~ z.Zt. Münchberg, Justizpalast ISD,
ein Angeklagter im obenbezeichneten Fall, ersuche ergebenst,
dass der Name des Dr. Wolfram von Metzler,
dessen Anschrift Münchberg, Fürtherstr. 103 ist,
und der aufgrund bestehender Vorschriften berechtigt und be-
fugt ist, Fälle vor den Gerichten meines Landes zu ver-
treten, in die Akten der Militärgerichtshof aufgenommen wer-
de und dass er als mein ordnungsgemäss berufener Anwalt be-
stellt werde, um sich als Angeklagten gegen die Anschuldigung
der Anklage in der obenverwachten Sache zu verteidigen.

An 18. Tag des Monats Februar 1948.

Fritz Gajewski

MT - Fern 1 - 0

! Nr 46 - 500

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, FURNBERG, GERMANY
26 FEBRUARY 1948

312.

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

FILED *26 Feb 1948* with
Secretary General
for 1948
Date of Order

Pursuant to the authority vested in the Tribunal by Section (e), Article V of Military Ordinance No. 7, and in accordance with the Order of the Tribunal entered under date of 18 November 1947, designating James G. Mulroy as Commissioner to preside at and supervise the taking of the testimony of such witnesses as may, from time to time, be designated, the Tribunal hereby issues the following:

ORDER:

Testimony of all witnesses whose affidavits or interrogatories have been or which may hereafter be admitted in evidence in this case, and on which affidavits or interrogatories there has been no previous cross-examination, shall be taken before the said Commissioner and verbatim report of such testimony shall be promptly made to the Tribunal as provided in the above-mentioned Order, dated 18 November 1947.

The Secretary General shall compile and furnish to the Commissioner a complete list of all affidavits and interrogatories covered by this Order and shall upon request, or in any event weekly thereafter, furnish similar lists to the Commissioner covering any additional affidavits and interrogatories subsequently introduced in evidence.

It is further ordered:

- (a) Parties desiring to cross-examine such affiant witnesses shall promptly furnish to the Commissioner complete up-to-date lists in duplicate containing names and addresses of said witnesses together with the exhibit and document numbers of the affidavits involved; and said parties shall also weekly hereafter furnish to the Commissioner similar lists of any additional witnesses as aforesaid.
- (b) Thereupon the said Commissioner shall forthwith proceed as directed by Order of this Tribunal heretofore made and entered 18 November 1947.

PROSECUTION NOTIFIED

26 Feb 1948 LOK

DEFENSE NOTIFIED

MILITARY TRIBUNAL VI

David J. Hake
Presiding Judge

James W. Morris
Judge

James M. Hebert
Judge

Clarence J. McNeely
Alternate Judge

Dated this 26th day of February 1948

FILED 26 Feb. 48
EMK

Secretary General
of Military Tribunal VI
Nürnberg, Germany

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NÜRNBERG, GERMANY

THE UNITED STATES OF AMERICA :

Case No. 6

313

CARL KRAUCH, et al.,

Commissioner's Notice
of Taking Evidence.

Defendants. :

TO: Each of the defendants in the above-entitled case and their
Counsel, and to the Secretary General and Marshal of U.S.
Military Tribunal VI:

You, and each of you, will please take notice that in accordance with the Orders of U.S. Military Tribunal No. VI, dated 18th day of November, 1947 and 8th day of December, 1947, the undersigned, JAMES G. MULLOY, as Commissioner of said Tribunal, upon the 26th day of February, 1948, at the hour of 9:30 A.M. in Courtroom #70, in the Palace of Justice at Nürnberg, Germany, will resume taking the testimony of witnesses, designated on the official record of proceedings in this case, and at said time and place all such witnesses who are then present will be called, sworn and required to testify upon direct, cross, and re-direct examination as to matters and things contained in any and all exhibits as referred to in the said Tribunal's Order dated 8th December, 1947; and in the event that the taking of such witnesses' testimony shall not be completed upon the date specified herein, then and in that event the same may be continued by the Commissioner to such date or dates as shall seem proper.

It is expected that witness Nosack Treister will be present and will testify upon affidavit described as Prosecution Exhibit 1484, NI 4827.

Dated at Nürnberg, Germany,
this 23rd day of February, 1948

James G. Mulloy
Commissioner

Due and timely service of copies of
the above notice is hereby acknowledged
this 25th day of February, 1948

Distribution:

Dr. Mueller	3
Mr. Sprecher	3
Secy. General	3
Marshal	2
Defense Center	1

A. W. Muller
Counsel for Defendants

Ernest Liberman
Counsel for Prosecution

314_a

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, MUNSTER, GERMANY
28 FEBRUARY 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

FILED *28 February* with
Secretary General
Case No. 8
Military Tribunals
Camp Center

ORDER

It having been made to appear to the Tribunal that the father-in-law of the Defendant Heinrich Gattmann is seriously ill and at the point of death at Wuppertal, Germany, the Tribunal orders that said defendant may be excused from the trial and permitted to visit his said father-in-law for a reasonable time or until the further order of the Tribunal, under such restrictions and limitations as may be imposed by the military authorities in the interest of security.

MILITARY TRIBUNAL VI:


CURTIS C. DRAKE, President


Dated this 28th day of February 1948

DEFENSE NOTIFIED

1 March 1948 *for*
PROSECUTION NOTIFIED

RUDOLF ASCHENAUER
Defense Counsel for the
Defendant Gattineau

314
②
Nuremberg, 27 February 1948.

FILED 27 Feb 1948
Secretary General
for Military Tribunals
Defense Center

To:

Judge C.G. SHAFF,
President of
Military Tribunal VI,
Nuremberg.

I have just received a telephone message, whereafter the father-in-law of the defendant GATTINEAU is about to die. Moreover Dr. Gattineau is the only person who can act on behalf of his father-in-law. The defendant's mother-in-law is 64 years old. May I furthermore point out that the economical and financial situation is extremely complicated.

For this reason I kindly request a short leave for the defendant Gattineau and the permission for him to travel to Wuppertal.

Rudolf Aschenauer

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
20 FEBRUARY 1948

315

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUTH, et al.,

Defendants.

FILED 1 March 1948 with
Secretary General
Case No. 6 of 7 Trials
D. 10000 Center

ORDER

It having been made to appear to the Tribunal that the mother of the Defendant Georg von Schnitzler is eighty-six years of age and ill, and that she has expressed a desire to see her said son,

IT IS ORDERED by the Tribunal that said defendant is hereby granted leave to absent himself from the trial and to visit his said mother at Golsberg, near Bonn in the British Zone, for a reasonable time or until the further order of the Tribunal, subject, however, to such conditions and restrictions as may be imposed by the military authorities for the purposes of security.

Curtis G. Shaker

CURTIS G. SHAKER,
Presiding.

Dated this 20th day of February 1948.

DEFENSE NOTIFIED

2 March 1948 JOK
PROSECUTION NOTIFIED

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY

316

THE UNITED STATES OF AMERICA :

-vs-

CARL KRAUCH, et al., :

Defendants. :

Case No. 6

Commissioner's Notice
of Taking Evidence

FILED / March 1948

Secretary General
of Military Tribunals
Nurnberg, Germany

TO: Each of the defendants in the above-entitled case and their
Counsel, and to the Secretary General and Marshal of U.S.
Military Tribunal VI:

You, and each of you, will please take notice that in accordance with the Orders of U.S. Military Tribunal No. VI, dated 18th day of November, 1947 and 8th day of December, 1947, the undersigned, JAMES G. MULROY, as Commissioner of said Tribunal, upon the 27th day of February, 1948, at the hour of 2:00 P.M. in Courtroom #70, in the Palace of Justice at Nurnberg, Germany, will resume taking the testimony of witnesses, designated on the official record of proceedings in this case, and at said time and place all such witnesses who are then present will be called, sworn and required to testify upon direct, cross, and re-direct examination as to matters and things contained in any and all Exhibits as referred to in the said Tribunal's Order dated 8th December, 1947; and in the event that the taking of such witnesses' testimony shall not be completed upon the date specified herein, then and in that event the same may be continued by the Commissioner to such date or dates as shall seem proper.

It is expected that witness Rene Balandier will be present and will testify upon affidavit described as Prosecution Exhibit 1398 NI 7501.

Dated at Nurnberg, Germany,
this 27th day of February, 1948

James G. Mulroy
Commissioner

Due and timely service of copies of
the above notice is hereby acknowledged
this day of February, 1948.

S. W. Miller
Counsel for Defendants

Amable Hall
Counsel for Prosecution

Distribution:

Dr. Mueller	3
Mr. Sprecher	3
Secy. General	3
Marshal	2
Defense Center	1

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA
Against
KRAUCH and Others (Case VI)

FILED 3 Mar 48

SECRETARY
 Military Tribunals
 Nurnberg, Germany

NOTICE OF WITNESS TO BE CALLED BY THE PROSECUTION

TO: The Secretary General, Military Tribunals (261):

1. Pursuant to the Uniform Rules of Procedure, notice is hereby given that the prosecution will call upon the witness named below to testify ~~in person~~ before the Commissioner of Tribunal VI, on or shortly ~~after~~ after Thursday, 28 February 1948.

Data Concerning the Witness

2. Name of Witness:	TRUBSTER, Noask
3. Nationality:	Czech
4. Address or Station:	Zetisl 8, Prague VII
5. Official Rank or Position:	Former inmate of Monowitz concentration camp

General Nature of Testimony

6. Matters related directly to the subject matter of the following affidavit(s) of this witness already introduced in evidence and for cross examination including subject matter of this/these affidavit(s).

SI-4827

By:

D.A. SPEECHER
 Chief, Farben Trial Team

Nurnberg: 24 February 1948.

Date

For:

TELFORD TAYLOR
 Brig. Gen. USA
 Chief of Counsel

Distribution:

10 copies to Secretary General's Office (including original)
 1 copy to Defense Administrator
 1 copy to Judge Shake
 1 copy to Legal Advisers
 1 copy to File

Test. filed 26 Feb 48

Maurice De Vinna
 Assistant Secretary General
 Tribunal VI

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA
Against
KRAUCH and Others (Case VI)

FILED 5 March 48
ENK
Secretary General
of Military Tribunals
Nurnberg, Germany

NOTICE OF WITNESS TO BE CALLED BY THE PROSECUTION

TO: The Secretary General, Military Tribunals (281):

1. Pursuant to the Uniform Rules of Procedure, notice is hereby given that the prosecution will call upon the witness named below to testify ~~before the Military Tribunal~~ before the Commissioner of Industrial U.S. on 27 February 1948, 27 February 1948.

Data Concerning the Witness

2. Name of Witness: **MALANDIER, Rene**
3. Nationality: **French**
4. Address or Station: **21 Rue Maistre
Paris (19), France**
5. Official Rank or Position: **Former employee of the
Factory Laboratory Soudier
(sugar refinery)**

General Nature of Testimony

6. Matters related directly to the subject matter of the following affidavit(s) of this witness already introduced in evidence and for cross examination including subject matter of this/these affidavit(s).

EL-7961

By: D.A. SPEECHER
Chief, Warbon Trial Team

Nurnberg: 28 February 1948
Date

For: **TELFORD TAYLOR**
Brig. Gen. USA
Chief of Counsel

Distribution:
10 copies to Secretary General's Office (including original)
1 copy to Defense Administrator
1 copy to Judge Shaks
1 copy to Legal Advisors
1 copy to File

Testified 27-28 Feb 48

Maurice De Vinna
Assistant Secretary General
Tribunal VI

319

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
2 MARCH 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

FILED 39 March 1948 with
Case No. 6
Secretary General
for Military Tribunals
Defense Center

ORDER

In accordance with Order of this Tribunal made and entered in the above entitled matter upon the 18th day of November 1947 in which said Order, Mr. James G. Mulroy was appointed a Commissioner of this Tribunal to preside at and supervise the taking of testimony of such witnesses as might from time to time be designated by this Tribunal on the official record of its proceedings;

And it now appearing that one of the witnesses designated as aforesaid to wit Salomon Kahn, is now a resident of Berlin, Germany and that it is necessary for his testimony to be taken by the aforesaid Commissioner;

And it further appearing that it is necessary for the following persons to be present at and attend the examination of said witness to wit: E. E. Kinschoff, Assistant United States Prosecutor, two court reporters and one interpreter, to be designated by the Chiefs of the Court Reporting and Language Divisions OGC WC at Nuremberg, Germany, together with three members of Defense Counsel in the above entitled cause, to wit:

Alfred Seidel
Karl Hoffmann
Rolf W. Mueller;

and the Tribunal being fully advised in the matter, Now Therefore,

IT IS HEREBY ORDERED that the said Commissioner, James G. Mulroy, be and he is hereby authorized and directed forthwith, or at the earliest practicable date, to proceed to the City of Berlin, Germany, accompanied by the above mentioned persons and, thereafter, in said City proceed with the oral examination of the aforesaid witness, and the Secretary General is hereby requested to make such arrangements as may be necessary for the transportation and billeting of all of the said parties in or between the Cities of Berlin and Nuremberg, Germany.

Curtis G. Shaker
CURTIS G. SHAKER
Presiding

Dated this 2nd day of March 1948.

DEFENSE NOTIFIED

39 March 1948
PROSECUTION NOTIFIED

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

Kranich et al.

FILED 5 March 48

320

①

Defendant's Application for Summary for Witness

To: The Secretary-General, Military Tribunals:

I, Dr. Erich Berndt attorney for _____

Wann, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Ernst Bernau, Frankfurt on Main, Court prison

Occupation and last known location:

In leading position with the German Company for the
"fight against injurious insects" Ltd.

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:
German Company for the "fight against injurious insects" Ltd.

These facts are relevant to the defense for the following reasons:
Is able to testify to Case Degesch

Prosecution's answer of 9 March 1948

No objection.

4 March 1948

(Date)

J. H. Fisher
Chief, Trial Team I -

(s.) Dr. Berndt

Signature of Defendant's Counsel

Decision of Tribunal

Approved.

1422

Presiding Judge.

11 March 1948

VEREINIGTE STAATEN VON AMERIKA:

gegen

Krauch & andere

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Erich Bernat, Verteidiger fuer

Mann

, beauftrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Ernst Bernau, Frankfurt/M. s. Zt. Gerichtsgefangnis

Beruf und Lebensbekannter Wohnort:

in leitender Position bei Deutsche Gesellschaft fuer

Schadlingsbekämpfung m. b. H.

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person weiss ueber die folgenden Tatsachen Bescheid:

Deutsche Gesellschaft fuer Schadlingsbekämpfung m. b. H.

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Kann zum Fall Degesch aussagen

4. Maerz 1948

(Datum)

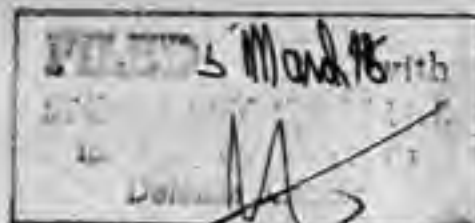
E. Bernat

Unterschrift des Verteidigers

Beschluss des Gerichtshofs

MILITARY TRIBUNALS

Nuremberg, Germany



UNITED STATES OF AMERICA

321

①

Against

Kranich et al.

Defendant's Application for Summary for Witness

TO: The Secretary-General, Military Tribunal:

I, Dr. Erich Berndt, attorney for _____

Mann

(Name of Defendant)

hereby request that follow-

ing person be summoned by the Tribunal to give evidence in the defendant's behalf:

Name of Person desired as Witness:

Dr. Albert Fischer

Occupation and last known location:

Other information that may aid in locating the Person named:
In leading position with the German Company for the
"fight against injurious insects" at present in Frankfurt on Main, Court prison.

The person above named has knowledge of the following facts:

German Company for the "fight against injurious insects" Ltd.

These facts are relevant to the defense for the following reasons:
Is able to testify to Case Dagesch

Prosecution's answer of 9 March 1948

No objection.

4 March 1948

(Date)

H. A. Fischer
Chief, Trial Team I

(s.) Dr. Berndt

Signature of Defendant's Counsel

Decision of Tribunal

DEFENSE NOTIFIED
AND PROSECUTION
ADVISED

11 March 1948

1424

Carroll H. Chase
Presiding Judge.

VEREINIGTE STAATEN VON AMERIKA

gegen

Krauch & andere

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Erich Berndt Verteidiger fuer

Mann

, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Dr. Albert Fischer

Beruf und Wohnort:

in leitender Position in der Deutschen Gesellschaft fuer Schaedlings-
bekaempfung, z. Zt. Frankfurt/M., Gerichtsgefangnis

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person wies ueber die folgenden Taten den Bescheid:

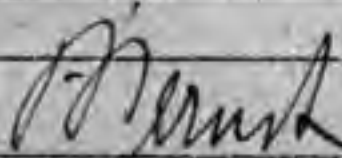
Deutsche Ges. f. Schaedlingsbekaempfung n. b. H.

Diese Taten sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Kann zum Fall Dagesch aussagen

4. Maers 1948

(Datum)



Unterschrift des Verteidigers

Beschluss des Gerichtshofs

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

KRAUSE and Others (Case VI)


ANSWER TO APPLICATION FOR SUMMONS OF WITNESS

TO: The Secretary General, Military Tribunals (Room 281)

1. Answer is made to an application by Dr. Berndt, counsel for the defendant TEE MEER, dated 4 March 1948, requesting that Dr. Ernst Struss be summoned to testify with respect to prosecution exhibit 1876, NI-12610, the affidavit of Dr. Struss stating that he had reported to the defendant TEE MEER and AMBROS in 1943 that concentration camp inmates were being gassed and cremated in Auschwitz.

2. It is our understanding this is one of the matters referred to the Commissioner. Since the prosecution will call Dr. Struss before the Commissioner to testify concerning certain defense exhibits (particularly charts), it is suggested that this matter be cleared up at the same time.

By:


D. A. SPREITZER
Chief, WARREN TRIAL TEAM

Nurnberg 10 March 1948
Date

For:

TELFORD TAYLOR
Brig. Gen. USA
Chief of Counsel

MILITARY TRIBUNALS

Burnberg, Germany

UNITED STATES OF AMERICA

Against

Krauch et al.

Defendant's Application for Person for Witness

TO: The Secretary-General, Military Tribunal:

I, Dr. Erich Berndt attorney for

ter Meer, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Dr. Struss

Occupation and Last Known Location:

Frankfurt on Main, Germany 62

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

See Office

These facts are relevant to the defense for the following reasons:

Affidavit and Interrogation Proc. Exhibit 1878

SI-12610

Burnberg 4 March 1949

PROSECUTION AND
DEFENSE NOTIFIED

(s) Dr. Berndt

Signature of Defendant's Counsel

Decision of Tribunal

Denied, since witness will be available for
further examination before Commission Kurt H. Hake
Presiding Judge.

2 APR 1949 1427



VEREINIGTE STAATEN VON AMERIKA

gegen

Krauch & andere

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Erich Bernat Verteidiger fuer ~~Spillmann der Meer~~

, beantrage hiermit, dass die

(Name des Angeklagten).

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Dr. Struss

Beruf und Lebensbekannter Wohnort:

Frankfurt, M., Gartenweg 69

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person wies ueber die folgenden Tatsachen Bescheid:

Taa-Suere

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Affidavit und Interrogation Pres. Exhibit 1876

NI-12610

Euerberg, 4. Maerz 1948
(Datum)


Unterschrift des Verteidigers

Beschluss des Gerichtshofs

MILITARY TRIBUNALS

Furnberg, Germany

UNITED STATES OF AMERICA

Against

Krauch et al.

FILED 5 March 48

S. C. C.

to: Military

Defense

323

(1)

Defendant's Application for Subpoena for Witness

TO: The Secretary-General, Military Tribunal:

I, Dr. Erich Berndt attorney for

Mann, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Dr. Koloman Roka

Occupation and last known location:

In leading position with the German Company for the "fight against
injuriously insects" at present in Frankfurt on Main, Court prison.

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

German Company for the fight against injurious insects", Ltd.

Those facts are relevant to the defense for the following reasons:

Is able to testify to case Degesch

Prosecution's answer of 9 March 1948

No objection.

4 March 1948

(Date)

Chief, Trial Team I

(s.) Dr. Berndt

Signature of Defendant's Counsel

Decision of Tribunal

PROSECUTION AND
DEFENSE NOTIFIED

Approved.

Presiding Judge

Case 6

1429

11 March 1948

VEREINIGTE STAATEN VON AMERIKA

gegen

Krauch & andere

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Erich Berndt Verteidiger fuer

Mann

, beantrage hiermit, dass die
(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Dr. Coleman Roke

Beruf und Lebensbekannter Wohnort:

in leitender Position bei Deutsche Gesellschaft fuer Schaedlingsbe-
kampfung m. b. H., z. Zt. Frankfurt/M. Gerichtsgefaengnis

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person weiss ueber die folgenden Tatsachen Bescheid:

Deutsche Gesellschaft fuer Schaedlingsbekampfung G. m. b. H.

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

kann zum Fall Degesch aussagen

4. Maerz 1948

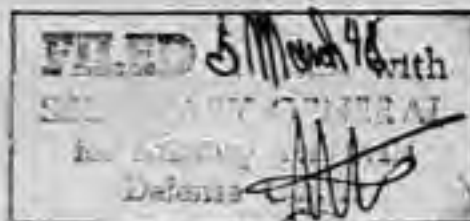
(Datum)


Unterschrift des Verteidigers

Beschluss des Gerichtshofs

MILITARY TRIBUNALS

Munich, Germany



UNITED STATES OF AMERICA

324

①

Against

Krauch et al.

Defendant's Application for Orders for Witnesses

TO: The Secretary-General, Military Tribunal:

I, Dr. Erich Berndt attorney for

Mann

(Name of Defendant)

herely request that follow-

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Hermann Schlosser

Occupation and last known location:

In leading position with the German Company for the
"fight against injurious insects" at present in Frankfurt
on Main, Court prison.

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

German Company for the "fight against injurious insects" Ltd.

These facts are relevant to the defense for the following reasons:
Is able to testify to Case Tegenach

Prosecution's answer of 9 March 1948

No objection.

4 March 1948

(Date)

Dr. A. L. Lohr
Chief, Trial Team I

(s.) Dr. Berndt

Signature of Defendant's Counsel

Decision of Tribunal

PROSECUTION AND
DEFENSE NOTIFIED

Approved. 11 March 48

11 March 1948

Presiding Judge.

Krauch & andere

VEREINIGTE STAATEN VON AMERIKA

gegen

Krauch & andere

Antrag eines Angeklagten zur Zeugenverladung

In dem Generalsekretariat des Militärgerichtshofes:

Ich, Dr. Erich Berndt Verteidiger fuer

Mann

, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Hermann Schlosser

Beruf und tatsaechlicher Wohnort:

in leitender Position in der Deutschen Gesellschaft fuer Schaedlings-
bekaempfung, z. Zt. Frankfurt/M., Gerichtsgefangenis

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person weiss ueber die folgenden Tatsachen Bescheid:

Deutsche Gesellschaft fuer Schaedlingsbekaempfung m. b. H.

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Ich zum Fall Dagesch ausgesagt

4. Maerz 1948

(Datum)


Unterschrift des Verteidigers

Beschluss des Gerichtshofs

1432

Vorsitzender Richter

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

Krauch et al.

Defendant's Application for Summons for Witness

TO: The Secretary-General, Military Tribunal:

I, Dr. Erich Berndt attorney for

Kann, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person Desired as Witness:

Ulrich Kaufmann

Occupation and last known location:

In leading position with the German Company for the
"fight against injurious insects" at present in Frank-
furt on Main, Court prison.

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:
German Company for the "fight against injurious insects" Ltd.

These facts are relevant to the defense for the following reasons:

Is able to testify to Case Pagsach

Prosecution's answer of 9 March 1948

No objection.

4 March 1948

(Date)

H. A. Siedler
Chief, Trial Team I -

(s.) Dr. Berndt

Signature of Defendant's Counsel

Decision of Tribunal

PROSECUTION APPROVED.
DEFENSE NOTIFIED

11 March 1948

Presiding Judge.

MILITÄRGERICHTSHOF
Munich, Deutschland

VEREINIGTE STAATEN VON AMERIKA

gegen

Krauch & andere

Antrag eines Angeklagten zur Zeugenvernehmung

In dem Generalsekretariat des Militärgerichtshofes:

Ich, Dr. Erich Bernat Verteidiger fuer

Mann,

beantrage hiermit, dass die
(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Ulrich Kaufmann

Beruf und ~~Wohnort~~ Wohnort:

in leitender Position bei Deutsche Gesellschaft fuer Schaedlingsbe-
kaempfung, z. Zt. Frankfurt a. M., GerichtsgefangeNIS

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person weiss ueber die folgenden Tatsachen Bescheid:

Deutsche Gesellschaft fuer Schaedlingsbekaempfung

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Deutsche Gesellschaft fuer Schaedlingsbekaempfung m. b. H.

4. Maerz 1948

(Datum)

Bernat

Unterschrift des Verteidigers

Beschluss des Gerichtshofs

1434

Vorsitzender Richter

Blatt 6

✓
325
②

2 March 1948

326

Exhibit 44-21

FILED 5 Mar 48
ENK
Secretary General
of Military Tribunal
Nuremberg, Germany

Dr. F. G. S. S. S. S. S.

Dr. G. S. S. S. S.

Witnesses to be called
by the Defense

Walter Richard

Baron

Ludwig Fritze

Heinrich Fildersdorf

Witness is to testify to actual facts

Testified 5 Mar 48

Heinrich Fildersdorf
Assistant Secretary General
Tribunal III

(Date) March 2, 1948U.S. vs. Krauch a.o.

Notice of Witnesses

TO BE CALLED BY THE DEFENSE

of Dr. Fritz Gajewski

FILED 5 March 1948

EMK

Secretary General
of Military Tribunal
Nürnberg, Germany

Notice is hereby given that the Defendant _____

Gajewski may call the witness named below to
testify concerning the matters hereinafter stated.

Name : HANS JOERSS
 Nationality : German
 Address : Lobmachersen No. 2
 Position : of Salzburg
 Nature of Testimony : Testifying for the
 defendant Gajewski on Count III

Received:

Date _____ Time _____

Testified 5 March 1948

Maurice De Vinna
 Assistant Secretary General
 Tribunal VI

(Date) March 2, 1948U.S. vs. Krauch a.o.

Notice of Witnesses

TO BE CALLED BY THE DEFENSE

of Dr. Fritz Gajewski

FILED 5 March
ENK
Secretary General
of Military Tribunal
Nürnberg, Germany

Notice is hereby given that the Defendant Gajewski
may call the witness named below to
testify concerning the matters hereinafter stated.

Name : HANS JOERSS
Nationality : German
Address : Lobwachtstrasse No. 2
Position : 1st Subj. Officer
Nature of Testimony : Testifying for the
defendant Gajewski on Count III

Received:

Date _____ Time _____

Testified 5 March 1948

Margaret De Vries
Assistant Secretary General
Tribunal VI

(Date) 2 March 1948

328

U.S. vs. Krauch et al.

FILED 5 Mar 48

ENK

Secretary General
of Military Tribunal
Nürnberg, Germany

Notice of Witnesses

TO BE CALLED BY THE PROSECUTION

Dr. Werner Schubert

Notice is hereby given that the Defendant Ernst BUEHNER

may call the witness named below to testify concerning the matters hereinafter stated.

Name	:	Weeber, Karl Hermann
Nationality	:	German
Address	:	Schladerm-Wieg
Position	:	Engineer
Nature of Testimony	:	Witness is to testify to actual facts.

Subscribed:

Defendant's Name

Testified 5 Mar 48

Ernest De Vries
Assistant Secretary General
Tribunal 41

MILITARY TRIBUNALS

Nurnberg, Germany

FILED 8 Mar 48 with
SECRETARY GENERAL
for Military Tribunal
Defense Counsel

UNITED STATES OF AMERICA

Against

Kranich et al.

329

①

Defendant's Application for Orders for Witnesses

TO: The Secretary General, Military Tribunal:

I, Dr. Erich Berndt attorney for _____

Mann, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Dr. Gerhard Peters

Occupation and last known location:

In leading position with the German Company for the "fight against
injurious insects" Ltd. at present in Frankfurt on Main, Court
Other information that may aid in locating the Person named: prison

The person above named has knowledge of the following facts:

German company for the "fight against injurious insects" Ltd.

These facts are relevant to the defense for the following reasons:

Is able to testify to case Degesch

Prosecution's answer of 9 March 1948

No objection.

4 March 1948

(Date)

Chief, Trial Team I.

(s) Dr. Berndt

Signature of Defendant's Counsel

Decision of Tribunal

PROSECUTION AND
DEFENSE NOTIFIED

11 March 1948

Presiding Judge.

VEREINIGTE STAATEN VON AMERIKA

gegen

Krauch & andere

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Erich Bernat Verteidiger fuer

Krauch,

beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Dr. Gerhard Peters

Beruf und wohlbekannter Wohnort:

in leitender Position bei Deutsche Gesellschaft fuer Schaedlingsbe-
kaempfung n. b. H. z. St. Frankfurt/M., Gerichtsgefängnis

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person weiss ueber die folgenden Tatsachen Bescheid:

Deutsche Gesellschaft fuer Schaedlingsbekaeupfung n. b. H.

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Kann zum Fall Dorsch aussagen

4. Maerz 1948

(Datum)

Bernat

Unterschrift des Verteidigers

Beschluss des Gerichtshofes

330
①

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
8 MARCH 1948

THE UNITED STATES OF AMERICA :

- vs. - :

CARL KRAUGH, et al., :

Defendants. :

FILED 10 March 1948

Secretary General

for Military Tribunals

Case No. Nurnberg, Germany

ORDER

Having considered the Prosecution's Application, dated 26 February 1948, for the Production of Documents, the Defendants' Answer thereto, the Prosecution's Reply, and the Supplemental Affidavit of Dr. Wolfgang Alt, presented on 8 March 1948, the Tribunal now announces its ruling on said application:

While the Prosecution's Application is very broad in its implications, the only specific charges contained therein, which are supported by any such showing of facts as merit the consideration of the Tribunal, relate exclusively to documentary material pertaining to Farben's Ludwigshafen Plant in the French Occupation Zone. We find nothing in the record to indicate that there has been anything culpable or improper on the part of anyone in connection with the circumstances under which any documents were removed from Griesheim to Ludwigshafen or under which papers at Ludwigshafen were destroyed. It further appears that only a comparatively small number of documents are involved in this controversy and that these have since been deposited in the Office of the Secretary General or returned to the files at Ludwigshafen, where they are accessible to all parties concerned.

It does affirmatively appear, however, that Dr. Wolfgang Alt has for some time been acting in a dual capacity, namely, as an assistant counsel for a defendant in this case and as a technical advisor to the present management of the Ludwigshafen Plant. If the obligations thereby voluntarily assumed by Dr. Alt were not, in fact, incompatible, they did, at least, impose upon him the positive duty of circumspect conduct in respect to the handling of documentary material that thereby came under his control. His conduct in intermingling such documents with his personal papers and concealing the former, at the plant or elsewhere, justifies a reprimand.

Nor can we permit this incident to pass without taking notice of what we regard as hasty and ill-conceived action on the part of the members of the Prosecution Staff here involved. If, when they discovered the facts subsequently set forth in their Application, they had promptly



- 2 -

come to this Tribunal for redress, instead of taking matters into their own hands by threatening potential witnesses with arrest and participating in an unwarranted violation of the privacy of the home of a member of the staff of defense counsel, they would have reflected greater credit upon themselves and the responsible positions they occupy.

If counsel for both sides will in the future carefully observe the rules pertaining to the production and handling of evidentiary documents and, at the same time, remember that as officers of the court they share responsibility with the members of this Tribunal for the orderly administration of justice, such unfortunate incidents as this will not again occur.

There is nothing in the record reflecting upon the honor or professional integrity of counsel for the defendants, generally, and they need not answer further.

The Application of the Prosecution is now dismissed.



Curtis G. Shaker
CURTIS G. SHAKER
Presiding

Dated this 8th day of March 1948

The above order read in open court on 8 March 1948.
by the presiding judge.

Maurice Van Vienne
Assistant Secretary General
Tribunal VI

4

330

Mich 6^③

A f f i d a v i t .

I, the undersigned Dr. Ing. Wolfgang ALT, residing in Ludwigshafen, Bunsenstr. 4, have been cautioned that I render myself liable to punishment by making a false affidavit. I hereby declare on oath that my statement is true and was made to be submitted as evidence to the Military Tribunal at the Palace of Justice in Nuernberg, Germany.

I am informed about the Prosecution's application for procurement of documents, dated 26 February 1948 as well as its rebuttal of 3 March 1948 to the reply of the Defense.

I am able to state the following concerning the two written statements of the Prosecution as a supplement to my affidavit dated 28 February 1948: I forwarded documents of the plant Ludwigshafen to the Defense in Nuernberg and also transmitted them personally in some cases.

I did not consider this activity a "large-scale and systematic withdrawal of evidence".

I never intended to destroy any of these documents or to withhold them from third parties. I merely desired to assist the Defense within the admissible limits. The Prosecution is of the opinion that the right course would have been to leave all documents in Ludwigshafen and to have each document photostated. I considered the course I took correct. It was furthermore the only way of offering practical assistance to the Defense.

Being a chemist, I could give explanations about the chemical part of the individual documents, however, I could not appreciate the full legal importance of these documents for the defense. Under these circumstances, I would have had to order many photostats, without anybody, except a chemist, finding anything interesting in them.

Not only would this have been useless, but due to the shortage of film, I would not even have been able to order so many photostats.

The only alternative would have been for each defense counsel interested in documents to have gone to Ludwigshafen, to examine on the spot.

Not only would we have encountered the same difficulties referred to above in procuring photostats for all the defense counsels, - but such journeys would have complicated and protracted the trial considerably.

As I myself did not destroy or damage any of the documents, and have no doubt that the same applies to the defense, I subjectively persisted in the view that no fault could be found with my behavior.

I do not believe that my concurrent activities in Ludwigshafen and Nuernberg put the defense at an advantage, since the French Administration made the files available to each individual defense counsel, so that the truth could be ascertained. No basic disadvantage arose from my conduct, as the documents which I forwarded were not destroyed, damaged or concealed even later, and the Tribunal as well as the Prosecution can still study the documents concerned.

In this connection I must state that I had nothing whatever to do with the return of documents from the document center at Griesheim to Ludwigschafen.

In Ludwigschafen I have seen only very few documents originating from Griesheim. Documents from Griesheim, known to me as such by their description, I have neither taken nor sent to Muenberg, nor have I removed any documents from them, nor taken or sent to Muenberg such documents.

I have detailed recollection of only three Leitz-Ordner, which were known to me as originating from Griesheim.

Two of these Ordner referred to the complex Murgas-ethylen. These Ordner documents I received in the spring of 1947 for information in connection with a task I had been entrusted with as analytical chemist of the BSW.

I have returned these Ordner-documents without having removed anything. As far as I remember the third Ordner had the heading: "Murgas-ethylen" and the Griesheim mark. No documents were removed from this Ordner and sent to Muenberg either.

Whether any of the Griesheim-documents have been destroyed I do not know.

Should this have happened, I declare neither to have caused such a destruction nor to have been in any way connected with it.

As for the origin of the weekly reports I state that these weekly reports which have come to Muenberg, did not originate at Griesheim.

They were personal data belonging to Bankdirektor BARTO at Ludwigschafen who, after the closing of the Auschwitz works, kept them as his personal documents.

When I received these weekly reports they no longer presented an undivided and complete set.

I have sent the weekly reports to Muenberg in the same condition in which I received them.

For me it goes without saying that no change whatever was

made to them.

Further, the Prosecution has taken exception to some instructions which I am supposed to have given or actually have given. To this I would say that some time ago I did actually suggest once that code names, such as are contained in the BERNHARD affidavit, should be used. At the beginning of the proceedings I intended this to be a precautionary measure. In the course of the trial I have realized that this precaution was unnecessary. As a chemist I had had my own ideas of what legal proceedings would be like. However I did not give any instructions to the effect that if American officials should appear in Ludwigshafen "all documents which might be of interest to the Prosecution or to the Defense" should be removed.

The instructions which I issued several months ago were simply for material consisting solely of defense papers, such as correspondence with the Defense in Weernberg, affidavits and copies, to be stored in a box, which could not be locked, in my private apartment.

Why this box was moved from my apartment to another room in the house before my apartment was searched, I do not know. I myself did not give any such instruction. The same applies to documents, which had been in my office, being moved to other rooms in the building.

If Herr BERNHARD, as is apparent from his affidavit, has made a different statement, it can only mean that he misunderstood my instructions in this matter. Herr BERNHARD obviously misunderstood me so thoroughly as to leave affidavits, for instance, in my office instead of putting them into the box. Meanwhile, the box, which the authorities had sealed after searching my apartment, has been opened, and the Prosecution is now in possession of the few documents of those which were in the box which could be of any interest to it.

Among the documents which the Prosecution seized out of my private box in my apartment is an extract from the Auschwitz weekly reports dealing with the airraid-precaution measures taken at the Auschwitz works, a plan of the buildings of the Auschwitz works, the detailed estimate of costs for an H 4 Sals plant at Ludwigshafen, and an unsigned copy of the draft of an agreement about this H 4 Sals plant. The agreement itself has already been submitted by the Prosecution in its final form, as Exhibit 608, Book 34.

Herr Hönig, in his affidavit dated 22 February 1948, states that copies were made at Ludwigshafen of a handwritten statement by Otto Ambros dealing with Gendorf, and one dealing with Dyhernfurth. He said that the originals of these works were later destroyed on my orders. In this connection I wish to state that these treatises about Gendorf and Dyhernfurth were written by Otto Ambros from memory in Nürnberg Prison for his defense. I had copies of these made and it is possible that I told Herr Hönig, after these copies were available, to throw away the handwritten originals, which could only be read with difficulty and which were superfluous. The said copies are in the possession of the Nürnberg Defense, now as before.

Nürnberg, 5 March 1948

Dr. Wolfgang Alt

I, Karl Hoffmann, attorney-at-law, herewith certify the above signature of Assistant Defense Counsel Dr. Ing. Wolfgang Alt.

Nürnberg, 5 March 1948

Karl Hoffmann
Attorney-at-law

CERTIFICATE OF TRANSLATION.

5 March 1948

I, Monica Wellwood, ETO No. 20148, hereby certify that
I am a duly appointed translator for the English and
German languages and that the above is a true and
correct translation of the Affidavit 2 Alt.

Monica Wellwood
Monica Wellwood
ETO No. 20148

Eidesstattliche Erklärung.

Ich, der Unterszeichnete, Dr. Ing. Wolfgang A l t , wohnhaft in Ludwigshafen/Rh., Bunsenstr.4, bin zunächst darauf aufmerksam gemacht worden, dass ich mich strafbar mache, wenn ich eine falsche eidesstattliche Erklärung abgebe. Ich erkläre ex Eidesstatt, dass meine Aussage der Wahrheit entspricht und gemacht wurde, um als Beweismaterial dem Militärgerichtshof VI im Justizpalast in Nürnberg, Deutschland, vorgelegt zu werden.

Der Antrag der Anklagebehörde auf Herbeischaffung von Dokumenten vom 26. Februar 1948 sowie die Erwiderung der Anklagebehörde vom 3. März 1948 auf die Antwort der Verteidigung sind mir bekannt. Ich selbst kann zu den beiden Schriftstücken der Anklagebehörde in Ergänzung zu meiner eidesstattlichen Versicherung vom 28. Februar 1948 folgendes sagen:

Ich habe Schriftstücke aus dem Werk Ludwigshafen für die Verteidigung nach Nürnberg geschickt, in einigen Fällen auch persönlich überbracht.

In dieser Tätigkeit habe ich keine "grossangelegte und systematische Entziehung von Beweismaterial" gesehen.

Ich habe damit nie die Absicht verfolgt, irgendeines dieser Schriftstücke zu vernichten oder dritten Personen zu entziehen. Mein Wille ging dahin, der Verteidigung in dem zulässigen Rahmen zu helfen.

./.

- 2 -

Die Anklagebehörde steht auf dem Standpunkt, der richtige Weg in dieser Hinsicht wäre gewesen, alle Schriftstücke in Ludwigshafen zu belassen und von jedem Schriftstück eine Fotokopie anfertigen zu lassen. Ich habe den von mir eingeschlagenen Weg bis jetzt für richtig gehalten. Darüber hinaus war es der einzige Weg, den ich praktisch überhaupt einschlagen konnte, um der Verteidigung zu helfen.

Als Chemiker konnte ich zwar auf chemisches Gebiet Aufklärung über die einzelnen Schriftstücke geben, juristisch aber übersehe ich die volle Bedeutung eines solchen Schriftstückes für die Verteidigung nicht. Unter diesen Umständen hätte ich viele Fotokopien anfertigen lassen müssen, ohne dass jemand ausser einem Chemiker an solchen Schriftstücken etwas Interessantes gefunden hätte.

Abgesehen von der Nutzlosigkeit eines solchen Handelns wäre es mir auch bei dem Mangel an Filmmaterial unmöglich gewesen, so viele Fotokopien machen zu lassen.

Es wäre dann nur übrig geblieben, dass jeder an Schriftstücken interessierte Verteidiger nach Ludwigshafen gefahren wäre, um dort am Ort und Stelle Einsicht zu nehmen.

Abgesehen davon, dass bei der Beschaffung von Fotokopien für sämtliche Verteidiger die gleichen Schwierigkeiten eingetreten wären, wie ich sie schon oben geschildert habe, hätten solche Fahrten zu einer erheblichen Erschwerung und Verlängerung des Prozesses geführt.

./.

- 3 -

Da ich selbst weder ein Schriftstück vernichtet noch beschädigt habe und bezüglich der gleichen Behandlung bei der Verteidigung keine Zweifel habe, habe ich subjektiv immer auf dem Standpunkt gestanden, dass an meinem Verhalten nichts auszusetzen war.

Dass ich der Verteidigung durch die Tatsache meiner gleichzeitigen Beschäftigung in Ludwigshafen und in Würzburg einen Vorteil verschafft habe, glaube ich nicht, da die Französische Administration um der Wahrheitsfindung zu dienen, auch den einzelnen Verteidigern Einsicht in die Akten gewährt hätte. Irgendein Nachteil ist durch meine Handlungsweise grundsätzlich nicht eingetreten, da die von mir übergebenen Schriftstücke auch später weder vernichtet, noch beschädigt oder versteckt wurden und das Hohe Gericht und die Anklagebehörde auch heute noch in der Lage sind, die in Frage kommenden Schriftstücke einzusehen.

Bebei muss ich grundsätzlich bemerken, dass ich mit der Rückführung von Akten aus dem Dokumenten-Center in Griesheim nach Ludwigshafen überhaupt nichts zu tun hatte.

Ich habe nur ganz wenige Akten, die aus Griesheim stammten, in Ludwigshafen überhaupt gesehen. Akten aus Griesheim, die mir durch ihre Beschreibung als solche kenntlich waren, habe ich weder nach Würzburg verbracht noch versandt, noch Schriftstücke aus ihnen entnommen, noch solche Schriftstücke nach Würzburg gebracht oder gesandt.

./.

- 4 -

In einzelnen erinnere ich mich überhaupt nur an drei Leitz-Ordner, die mir als aus Griesheim stammend bekannt waren.

Zwei dieser Ordner betrafen den Komplex Searges-Methylen. Diese Ordner erhielt ich im Frühjahr 1947 zur Einsichtnahme für eine Arbeit, die ich als Chemiker der BASF. auszuführen hatte.

Ich habe diese Ordner, ohne etwas entnommen zu haben, zurückgegeben. Der dritte Leitz-Ordner trug nach meiner Erinnerung die Aufschrift "Guna-Osten" und das Griesheim-Schild. Auch aus diesem Ordner sind keine Schriftstücke entnommen und nach Nürnberg geschickt worden. Ob überhaupt irgendwelche Akten aus Griesheim vernichtet worden sind, weiß ich nicht.

In Falle, daß das Gesagte ist, erkläre ich, daß ich eine solche Vernichtung weder veranlaßt noch irgendwie damit in Verbindung gestanden habe.

In der Herkunft der Wochenberichte bemerke ich, dass diese Wochenberichte, die nach Nürnberg gekommen sind, nicht aus Griesheim stammen.

Sie befanden sich als Konduktoren im Besitz des Bundesdirektors S a a t o im Ludwigsafen, der sie für sich nach Aufgabe des Werkes Auschwitz als seine Akten aufbewahrt hatte.

Als ich die Wochenberichte erhielt, stellten sie keinen geschlossenen und vollständigen Satz mehr dar.

./.

- 5 -

Ich habe die Wochenberichte, so, wie ich sie erhalten habe, nach Nürnberg gesandt.

Es ist für mich selbstverständlich, dass irgendeine Veränderung an ihnen nicht vorgenommen wurde.

Die Anklagenbehörde hat weiter einige Anweisungen beantragt, die ich gegeben haben soll oder tatsächlich gegeben habe. Hierzu bemerke ich, dass ich tatsächlich früher einmal den Vorschlag, Decknamen, wie sie im Affidavit von König enthalten sind, zu benutzen, gemacht habe.

Das war von mir zu Anfang des Verfahrens als Vorsichtsmaßnahme gedacht. Im Laufe des Prozesses habe ich eingesehen, dass meine Vorsicht unnötig war. Ich hatte mir als Obdakter meine eigenen Vorstellungen von einem Gerichtsverfahren gemacht.

Dagegen habe ich keine Anordnung gegeben, für den Fall, dass amerikanische Behörden in Laufzügen erschienen, "alle Dokumente, die für die Staatsanwaltschaft und für die Verteidigung von Interesse waren", beiseite zu schaffen. Meine schon vor Monaten schriftlich erteilte Anweisung ging lediglich dahin, reines Verteidigungsmaterial, wie Schriftwechsel mit der Nürnberger Verteidigung, Affidavits und Abschriften in einer unverschlüsselbaren Kiste in meiner Privatwohnung aufzubewahren.

Vorher diese Kiste denn vor der Durchsuchung meiner Wohnung aus meiner Wohnung in einen anderen Raum des Hauses gestellt wurde, weiß ich nicht. Ich selbst habe eine solche

/.

- 6 -

Anordnung nicht gegeben. Das Gleiche gilt für die Verbringung von Schriftstücken, die sich in seinem Büro befinden, in andere Räume des Gebäudes.

Wenn Herr König, wie sich aus seinem Affidavit ergibt, etwas anderes ausgesagt hat, so hat er seine flüchtigen Aussagen missverstanden. Herr König hat sich offensichtlich so gründlich missverstanden, dass er z.B. Affidavits in seinem Büro liess, statt sie in die Kiste zu legen.

Die Öffnung der freiwillig durch die Behörden nach der Durchsuchung seiner Wohnung versiegelten Kiste hat inwischen stattgefunden. Die Anklagebehörde ist in Besitz der meisten aus dieser Kiste als interessierenden Schriftstücke. Unter den Schriftstücken, die die Anklagebehörde mitsamt aus seiner Privatkiste, die sich in seiner Wohnung befand, in Besitz genommen hat, befindet sich ein Auszug aus den Auschwitzer Wochenberichten über die Luftschutzmaßnahmen des Werkes Auschwitz, ein Zertifikatsverzeichnis des Werkes Auschwitz, die detaillierte Kostenanschätzung über einen in Ludwigshafen geplante "4-Salz-Anlage" und eine nicht unterschriebene Kopie eines Vertragsentwurfes über diese "4-Salz-Anlage". Der Vertrag selbst ist in seiner endgültigen Fassung von der Prosecution bereits als Exhibit 608, Buch 34, eingeführt worden.

./.

- 7 -

Herr König gibt in seinem Affidavit vom 22. Februar 1948 an, dass eine handschriftliche Ausarbeitung von Otto Aebros über Gendorf und eine über Dyhernfurth im Ludwigschafen abgeschrieben worden seien. Die Originale dieser Arbeiten waren später auf meinen Befehl vernichtet worden. Hierzu bemerke ich, dass diese Ausarbeitungen über Gendorf und Dyhernfurth von Otto Aebros in Würnberger Gefängnis für seine Verteidigung aus dem Gedächtnis angefertigt wurden. Ich habe davon Abschriften machen lassen und es ist möglich, dass ich Herrn König, nachdem diese Abschriften vorgelegt, gesagt habe, die handschriftlichen Originale, die ich nur sehr schlecht lesen konnte, als überflüssig wegzulassen. Die genannten Abschriften sind noch wie vor in Besitz der Würnberger Verteidigung.

Würzburg, den 5. März 1948

Dr. Wolfgang Alt
 gez. Dr. Wolfgang Alt

Obige Unterschrift des Assistant Defence Counsel Dr. Ing. Wolfgang Alt, wohnhaft in Ludwigschafen/Rh., Bundesstrasse 4, beglaubige ich, Rechtsanwalt Karl Hoffmann hiermit.

Würzburg, den 5. März 1948

Karl Hoffmann
 gez. Karl Hoffmann
 (Rechtsanwalt)

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

KRAUCH and Others (Case VI)

330
16
1600
FILED 3 March 1948

Secretary General
for Military Tribunals
Nurnberg, Germany

REPLY OF THE PROSECUTION TO THE ANSWER OF THE
DEFENSE OF 28 FEBRUARY 1948 TO PROSECUTION MOTION OF 28
FEBRUARY 1948

1. In discussing the allegations and the counter-charges contained in the reply of the defense of 28 February 1948, the prosecution will endeavour to limit itself to an objective analysis of the facts. It does not serve the ends of justice to try to becloud the issues by statements such as those made in the introductory paragraphs of the defense reply. (How completely unfounded the statement of the defense that the prosecution action was taken in view of certain publicity concerning the trials here is shown by (1) the fact that the investigation which gave rise to the motion started well before this publicity, and (2) by the further fact (as at least one member of the defense well knows) that the prosecution was anxious to settle this matter without any formal action. Once a formal motion is filed, it, of course, becomes public property).

2. Before dealing with certain counter-charges which really serve only to sidetrack the basic issues, it will be best at the outset to restate in unmistakable terms the basis of the prosecution motion and then to examine the facts in support thereof.

3. The basis of the prosecution motion is the following:

(a) Over a period of time since the collapse of Germany, and particularly during the years 1946 and 1947, shipments of documents were made from Griesheim to Ludrigshaven at the request of the Ludrigshaven plant under representations that these documents belonged to or were needed at Ludvigshaven.

(b) A number of these documents were destroyed and reduced to pulp on the alleged grounds that there was no room for such documents and that they were of no use to the Ludwigshafen plant.

(c) Documents have been removed over a period of time, and particularly since the filing of the indictment in May 1947, from the official archives in Ludwigshafen without receipt and have been delivered to Dr. Alt. Dr. Alt has forwarded some of these documents, without receipt, to the defense in Nurnberg, including the weekly reports on Auschwitz.

(d) These activities, many of which were conducted without the knowledge of the French authorities, resulted in the large-scale withdrawal of material evidence from places where both members of the prosecution and defense would have access to such evidence, under circumstances which have deprived the prosecution and Tribunal of any knowledge of or accessibility to such evidence.

(e) The prosecution has not (and does not now) allege that the defense as a whole directed, approved or even knew about these activities. It is clear, however, that Dr. Alt participated in some of these activities and had knowledge of others. It is also clear that certain other members of the defense know where certain files on Auschwitz were, even though they may not have known the precise circumstances under which they were obtained. The prosecution has requested that anyone acting for the defense with the approval of the Tribunal produce any such Farben files or documents and has requested that such persons make an accounting for any such documents which cannot be produced because they have been destroyed. It should not be presumed from this (in an effort to evade the issue) that any misconduct is charged to any particular member of the defense merely because such person may have possession of or know about the existence of any document which the prosecution has requested should be produced or accounted for.

4. In support of the above allegations, the following facts, some of which have either been admitted or have not been denied, are established beyond a reasonable doubt in the judgment of the prosecution.

(a) Shipments of documents from Griesheim were made to the Ludwigshafen plant at the request of the Ludwigshafen plant. The actual lists of documents shipped from Griesheim to Ludwigshafen are in the hands of both the French authorities at Ludwigshafen and the American authorities at Griesheim. It is a fact that one of the largest shipments and particularly the one that contained a number of Auschwitz files was made in May 1946. However, the records indicate that shipments of documents from Griesheim to Ludwigshafen were made on the following dates:

20 May 1946	21 May 1947
24 May 1946	12 Aug. 1947
27 July 1946	25 Sept. 1947
13 Feb. 1947	23 Dec. 1947
21 Mar. 1947	

During most of 1946, Dr. Alt worked as an assistant to Dr. Otto AMEROS at the Ludwigshafen plant. During this same period a number of the former Vorstand colleagues of Dr. AMEROS were confined and being principally investigated in the American zone/in and around Frankfurt. These investigations, among other things, involved the relation of Farben to Germany's armaments and to Auschwitz. Beginning in October 1946, CCOWC took initial steps to have Dr. AMEROS extradited to Nurnberg for trial. Since the filing of the indictment (May 1947), Dr. Alt has continued to work at the Ludwigshafen plant. Since September 1947, he has been approved as a defense assistant.

(b) The prosecution would have no reason to object to those shipments, provided they could have found the documents shipped to Ludwigshafen in the files at Ludwigshafen.

(c) When the prosecution's team arrived at Ludwigshafen, it requested the French authorities for access to the files that were sent from Griesheim. The French authorities said that they would allow the

prosecution's team to see such documents: that they could not be taken from the files; but, that if necessary, photostats or microfilms could be made. The French authorities instructed the Germans who worked for them to make the files available for preliminary screening. The French authorities were obviously surprised when the Germans indicated that large quantities of the files had been destroyed and that others were sent to Nurnberg without receipt or other record and without first obtaining photostats or microfilms. The French authorities mentioned a French regulation prohibiting the destruction of any documents of the plant.

(d) Actual physical search of the files revealed that in many cases, particularly involving Auschwitz material, the envelopes had been emptied of their contents and the documents themselves had been removed. In a statement taken before the control officials of the French administration by Mr. Elbau of the prosecution staff, one Kurt Schaeffer tried to explain the circumstances which surrounded the disappearance of certain files which had been sent from Griesheim to Ludwigshaven in May 1946. This is attached as Appendix I. It will be noted that in connection with certain Auschwitz folders which had been either emptied or missing, the statement indicates that such material was probably made into pulp because "in the case of the former Eastern plants" the files were "totally without interest".

(e) The proof is clear and it has not been denied that a goodly number of documents were removed from the official archives in Ludwigshaven without receipt. Many of these were delivered to Dr. Alt who has been working in a dual capacity: first as an official in the "Parben plant" at Ludwigshaven owing certain obligations and duties to the French authorities, and second as an Assistant Defense Counsel for the defense in Nurnberg. Dr. Alt has merged non-contemporaneous defense documents (such as affidavits, etc.), in which the prosecution has never had any interest and to which the prosecution admittedly acc-

has no right of access, with contemporaneous original documents. Dr. Alt has also ordered Ludwigshaven employees to conceal contemporaneous documents from Allied investigators and has provided Ludwigshaven employees working for the defense with a code system to conceal the nature of certain of his activities, - - -

(f) In summary, documents (including Auschwitz documents) were sent from Griesheim to Ludwigshaven; many of these documents were destroyed; many original documents were delivered to Dr. Alt for the defense in Nuremberg without receipt and without any record.

5. The motion of the prosecution made no claim as to which defense counsel had knowledge of the detailed acts of Assistant Defense Counsel Dr. Alt. Indeed, one of the objectives of the motion is to have an open accounting whereby each defense counsel, as an official of the Tribunal, can state whether or not he had any knowledge of the improper removal or the destruction of the documents. This is a question which can be answered fully only by defense counsel and it still has not been answered. As the Tribunal and the prosecution were informed informally by defense counsel after the filing of the prosecution's motion, the previously missing Auschwitz reports were, or had been, in the hands of several defense counsel. The prosecution feels that it is particularly incumbent upon Dr. Alt, as an officer of this Tribunal, to give an accounting for documents which have been removed from Farben plants or official archives under Allied control by him or by persons acting on his behalf where this has been done without appropriate receipt or record.

6. The claim that the method of handling documents in the French zone has been or can be worked out in a manner agreeable to the French authorities and defense counsel might be a valid assertion generally, except that:

(a) The French authorities did not know of all of the ramifications of the handling of documents by persons holding dual positions

or acting under the supervision of Dr. Alt, who himself holds a dual position;

(b) Some of the Allied authorities, including this Tribunal, can overlook completely a situation which permits the possible concealment or destruction of evidence.

7. Obviously the prosecution has no right to ask (and we do not now ask) for the production of or accounting for individual defense documents which have been withdrawn upon a proper accounting from official archives or which have been obtained by the ingenuity of the defense from other sources than the official archives. For example, where the originals remain in the official archives, no accounting for or production of documents in the possession of the defense is requested. Moreover, where the originals have been removed upon receipt, so that any party can obtain these documents in a normal way upon the exercise of due diligence, again no accounting for or production of such documents is requested.

8. Among the more than 170 motions which the defense has filed with the Tribunal, there are dozens of examples where the defense has requested the prosecution to produce copies of documents or original documents which have been obtained according to the established regulations. Where the application has been for a specific document or a specific file of documents, the prosecution has produced these documents for the defense without ever saying to the defense "Go back to the document center and look for them yourself". In fact, in several cases the prosecution has brought documents here to Nurnberg at the express request of the defense so that they could be taken into conference between defense counsel and the defendants.

9. The defense makes certain allegations concerning the conduct of the prosecution team, which are without foundation and which the prosecution believes were made irresponsibly and improperly. The defense reply states: "We also protest strongly that, as part of so-

called investigations, that were to determine such so-called misdeeds of the defense, the prosecution obtained, by means of pressure, threats and the employment of other illegal means, knowledge of plans, documents, and evidence (for example affidavits) of the defense which are protected up to the time of their presentation before the court through the professional secret of the defense which is recognized in all civilized countries". The fact of the matter is that the prosecution at no time read or even touched any affidavit or other confidential evidence belonging to the defense but only concerned itself with contemporaneous Farben documents in existence before May 1945. The investigation by members of the prosecution team was made under the supervision and with the assistance of the French authorities. A statement from those authorities was attached to the original motion of the prosecution.

10. The reply also states the following: "The affidavits of Dr. Helwert and Dr. Timm of 25 and 26 February 1946, show the following transgressions and improper acts of the prosecution, ~~into~~ the basic rights of the defense:

"1) In spite of Dr. Timm's warning the prosecution, through Mr. Haeni, searched the private apartment of Dr. Alt, Assistant Defense Counsel, and they did this without assistance from the French or German police.

2) The prosecution requested Dr. Timm to mention to them those plant members who seek defense material for the trial, in order to then interrogate them about their activities. The prosecution announced furthermore that they wanted to interrogate Dr. Alt, Assistant Defense Counsel and Mr. Gerhard Neumann, Defense Counsel (see paragraphs 8 and 9 of Affidavit by Dr. Timm)".

With respect to the statement that Mr. Haeni of the prosecution searched the private apartment of Dr. Alt, several important facts are not mentioned. In the first place, Dr. Alt's apartment was searched by French Officials (accompanied by German officials) of BASF, who had

requested Mr. Haezi to accompany them. These French officials were looking for files which belonged to BASF and presumably had authority to make whatever search was necessary to find these files. Secondly, it may be mentioned that at the time no member of the prosecution team in Ludwigshafen realized that Dr. Alt was an Assistant Defense Counsel in Nurnberg. Mr. Minskoff and his colleagues were informed at Ludwigshafen that Dr. Alt, who is a chemist and not a lawyer, was being paid by BASF, but that he was working for the defense (like many others employed at Ludwigshafen plant). It did not occur to Mr. Minskoff at the time that such an individual was accredited as an officer of this Tribunal, while having certain definite responsibilities and obligations to the French administration at Ludwigshafen. With respect to the request that Dr. Alt be interrogated as well as Dr. Saumatz, this again arose from the dual capacity in which these gentlemen were operating. They were both employees of Ludwigshafen and the prosecution requested them for interrogation not knowing they were officers of this Court.

11. The prosecution also takes a strong exception to other counter-charges contained in the reply of the defense relating to the general question of the access to documentary material on the part of both the prosecution and defense. The defense asserts that it has not been granted "the same access to documents pertaining to the trial as the prosecution". It also makes the following statement concerning documents being used by the prosecution in connection with cross examinations: "If we now make available to the prosecution the above-mentioned documents in the above-mentioned fashion we do this so that the entire material which so far has been denied to us will be handed over at once, thus especially the documents which are still to be presented during cross-examinations. If necessary, we request the court to instruct the prosecution by means of a decision to make available for inspection all documents which it has so far held back."

12. These allegations of the defense are based either upon a complete misunderstanding or upon a complete misrepresentation of the situation relating to the documents. With respect to Farben documents the situation is briefly the following:

(a) Both the prosecution and the defense have equal access to the document centers under the jurisdiction of the authorities in the U.S. Zone of Occupation. There is a procedure which has been set up whereby if either side desires documents they can obtain them in one of two ways, neither of which, however, deprives the other side of the right of access to and knowledge of the existence of such documents. Thus in the Document Center at Griesheim when the prosecution wants to use a document it can either: (1) make a photostat of such document leaving the original in the files; or (2) in exceptional cases withdraw the original provided the prosecution leaves a receipt showing exactly what documents have been removed. Where the prosecution follows the first method the original is left in the files where the defense has equal access to it. Where the second procedure is followed, the defense, by checking the list of documents for which receipts have been given, may request the prosecution to produce copies of such documents. It may be noted here that it has been the practice of the prosecution to deliver copies of specific documents or specific files of documents to the defense upon proper application irrespective of which step was followed in bringing documents to Nurnberg. In other words, even when we have left the original at the document center and the defense has requested copies of specific documents, we have not told the defense to "go to the document center", but as a matter of convenience and courtesy have delivered copies of such documents to the defense. Members of the defense can also testify to the fact that they have received copies of or been given access to specific documents on various occasions from various members of the prosecution without formal observance of the rules requiring them to make formal motion for such documents.

(b) With respect to Farbon documents which are in the control of other governmental authorities such as the French, we agree that this is basically a matter for such authorities, but we do feel that it is not a matter which is totally of unconcern to the Tribunal. In this connection we are attaching a statement marked as Appendix II which outlines the procedure which the prosecution must follow in order to obtain documents from the French administration of the BASF. We understand from the French authorities at Ludwigshaven that a similar procedure is supposed to be followed by persons who are not working for the French administration such as the defense counsel in the case pending before this Tribunal. Although violations of such French regulations by the defense counsel are not per se matters within the jurisdiction of this Tribunal, it is submitted that this Tribunal, under its power to require the production of documents and other evidentiary material (Article 7(c) and (f) of Control Council Law No. 10) can and should require the production of relevant contemporaneous documents in the control of an officer of this Court which have been improperly removed from official archives.

(c) With respect to the documents which the prosecution is using in cross-examination, the facts are as follows: An examination of the documents which have been used to date (beginning with Exh. 1840) will reveal that practically all such documents are photostats of documents, the originals of which have been left in the document center where by due diligence on the part of the defense they could read such documents or if necessary obtain copies for themselves. If there are a few cases where the original has been introduced into evidence rather than the photostat, the document is covered under prevailing practice by a receipt left at the Document Center. This is in contrast with the practice apparently followed by the defense in many cases, since an examination of many documents introduced in evidence by the defense reveals that the original itself has been introduced in evidence. The defense in their

reply talk about the lack of due diligence on the part of the prosecution who it is alleged could have examined the documents that went from Griseheim to Ludwigshaven if they had gone to Ludwigshaven at an earlier date. It may be noted that the examination of many empty folders from which documents have been removed without receipt (many of which have been destroyed) would hardly reimburse the prosecution for its exercise of due diligence.

13. It is the considered judgment of the prosecution that in connection with the trial of this case every possible effort has been made by the prosecution to give the defense equal opportunities to obtain documentary evidence. The prosecution sincerely believes that the defense, with its large number (several dozen) of German speaking defense counsel and assistants and with its apparently equally large number of assistants who are not formally attached to the Tribunal (many of whom have an intimate knowledge of and connection with the Forben files with which they are dealing), have a very much greater opportunity to discover relevant evidence and produce it before this Tribunal than does the prosecution. This would be true even assuming that everyone operated within the prescribed rules of procedure laid down by the Allied authorities. And when in addition to this the prosecution discovers that a situation exists such as it found at Ludwigshaven, it is now more convinced than ever that the balance of the advantages lie with the defense.

14. The prosecution would welcome an appointment by this Tribunal of a special representative of the court who would study and report to the Tribunal on (a) the steps which have been taken by the prosecution to make evidence available to the defense; and (b) the steps which have been taken by the defense counsel or officers of this court to see to it that no contemporaneous documents from official files have been concealed.

15. The prosecution reiterates each and every sentence of its motion of 26 February 1948 and requests that the Tribunal grant the relief

sought in the motion. Accordingly, the prosecution repeats its request that the Tribunal direct Counsel for the Defense, individually and severally, and any other persons acting for the Defense with the approval of the Tribunal:

(a) To produce all Farben files or documents which have been removed from any Farben files or archives under the jurisdiction of any of the Allied authorities at the request of or upon the initiative of the Defense or any person acting on behalf of the Defense ("removed from Farben files or archives under the jurisdiction of any of the Allied authorities" is intended to refer only to removals without compliance with prescribed and appropriate regulations applicable to both the prosecution and the defense);

(b) To make an accounting in writing to the Tribunal of any such files or documents which cannot be produced because they have been destroyed.

By:


D.A. SPEECHER
Chief, Farben Trial Team

Nurnberg: 3 March 1946
Date

For:

TELFORD TAYLOR
Brig. Gen. USA
Chief of Counsel

- END -

-12-

Appendix I

Affidavit

I, Kurt Schaefer, born 15 Jan 1892 in Goerlitz, residing in Kirch-
heimbollen, Schloestr. 37, after having been warned that I will
be liable to punishment for making a false statement, state here-
with under oath for the purpose of being presented to the American
Military Tribunal in Nurnberg of my own free will and without
coercion, the following:

- 1) My position in Ludwigshafen is that of a manager of the
purchasing department of the Badische Anilin- & Sodafabrik
formerly the IG Farbenindustrie A.G., plant Ludwigshafen.
- 2) In May 1946, in the presence of a gentleman from the purchasing
department, 18 boxes with files of the purchasing department
which had been released by the chief of the Document Center,
Major Hansen, were brought from the Document Center in Griesheim
to Ludwigshafen. The contents of these files referred exclusive-
ly to the procurement of the chemical and technical supplies
needed for the plant Ludwigshafen and the plants under its care.
- 3) The files were unloaded on the ground floor of building LU 389
of our plant in the ante-room leading to the stairway which
could not be locked and were stored there for several weeks
open to everyone's access. They were then transported to the
3rd floor into the rooms of the purchasing department.

In the presence of Commandant Bagel, as representative of the
French administration of our plant, Mr. Elben requested from me
among other things information concerning the following files:

1)	S 1 IB 13	Anschwitz-Meylsbrock Dynamit	empty
2)	S 30 VI Q3	Buna Oston	missing
3)	S 33 IX 38	Anschwitz	"
4)	S 33 IX 39	Anschwitz	"
5)	S 33 IX 310	Anschwitz	"
6)	S 33 IX 311	Anschwitz	empty
7)	S 1 I C 1	Meylsbrock	missing
8)	S 1 I C 6	Meylsbrock	"
9)	S 33 V D 1	Buna 3 Foreign Plants Anschwitz	empty
10)	S 33 V D 2	Buna 3 Foreign Plants Luranil	missing

It was ascertained that of the above listed files partly only the
empty file covers were there while others were completely missing
(see above indications). On the other hand, a certain number of
the files searched for by Mr. Elben were on hand.

On the other hand, no list had been delivered together with the
files, so that it cannot be ascertained whether in fact all of
the files taken from Griesheim arrived here.

- 4) As an explanation for the complete absence of the files or the
missing of its contents and the presence of only the file covers,
I can only state the following:

When the files were delivered to Ludwigshafen in May 1946, far-
reaching storage difficulties were encountered (smaller office
space, lack of file-racks and cupboards), furthermore an urgent
need existed for the procurement of new paper, which partly could
only be covered by compensatory delivery of

(page 2 of original)

old paper. Furthermore, a great lack of empty file covers existed, which would not be bought at that time.

On the other hand, the files contained very much material which either was completely outdated or which had no more practical value, or, as in the case of the firm Eastern Plants, which had become of no interest.

In common conferences with the 3 department heads of the purchasing department it was decided that in view of the conditions described above it would be appropriate to turn all those files into pulp which in fact were without interest, in order to obtain new paper in exchange, to free file covers for the new correspondence and, especially, to make room in the offices. With the execution of this measure I entrusted the office messenger who brought the files to each technical expert (Sachbearbeiter) and who received from him the information whether the files in question should be destroyed or preserved. The decision of the individual technical expert was given only on the basis of usefulness of the still available material for the reconstruction of our plant, whereby without distinction files of the purchasing department for Ludwigshafen and of the plants under its care were destroyed or preserved, according to the decision of the technical expert concerned. In this way the files mentioned under 1-10 were probably turned into pulp. There is furthermore the possibility that later on other parties in the plant requested files. Since in principle no receipt is made out in our department for the issuing of files, I am no longer in a position to ascertain whether also in this fashion files will be removed and not returned.

I have carefully read each of the two (2) pages of this declaration and have placed my signature at the bottom of each page. I have made the necessary corrections in my own handwriting and initialed each correction. I herewith state under oath that I have stated the whole truth to the best of my knowledge and belief.

(signature) Kurt Schaefer
KURT SCHAEFER

Signed before us this day 24th of February 1948 at Ludwigshafen/Rh. by Kurt Schaefer, known to us to be the person making the above affidavit.

(signature) F. Engel
F. ENGEL, Control Officer of
the French Administration of the
RASF Ludwigshafen/Rh.

(signature) Alfred H. Elben
ALFRED H. ELBAU
U.S. Civilian
A 165 513
OOOWO, Nuernberg

(handwritten note): Sent to the Office of Chief of Counsel at
Nuernberg, 25 February 1948.

CERTIFICATE OF TRANSLATION

I, JOHN J. HOLL, ETO #A-444412, hereby certify that I am thoroughly conversant with the English and German languages; and that the above is a true and correct translation of the Appendix I signed by A.H. Elben and F. Engel on 24th of February, the original of which was in the German language.

JOHN J. HOLL,
U.S. Civilian,
AGO #A-444412.

The following is the procedure which the I. G. Farben team had to follow in order to obtain documents for the OCCWG from the French Administration of the BASF (formerly I. G. Farben, Ludwigshafen).

1. The members of the team had to check in at the reception desk and enter their names into the visitors book.
2. In addition to appropriate American and French orders, special clearance from the Chief Farben Control Officer in Baden-Baden had to be obtained to carry out the mission in the French zone.
3. Permission had to be obtained from the French Chief of Administration of the BASF to search for documents in any of the several departmental archives of the plant.
4. Finally, a representative of the French Administration accompanied the team to the archives and remained present at all times while the search was made.
5. Also, permission had to be obtained from the War Crimes Delegation of the French Justice Department in Baden-Baden to take out any documents or copies of documents. (Attachment No. I.)
6. The files which were of interest had to be cleared by the office of the Administration Chief who passed on them for reasons of French Security Regulations, etc. After his approval, the documents in question were microfilmed.
7. The members of the team had to give receipt (Attachment No. II) for the documents taken out, in which is clearly stated that the microfilm had been taken and that the team obliges itself to return the documents to the BASF in the shortest possible time. It further states on the receipt that the documents were taken out in order to serve as evidence in the I. G. Farben trial.

A. H. Elbau
U.S. War Department Civilian
AGO A 165513

2 Attachments

330
(31)

APPENDIX NO. II
ATTACHMENT NO. I

FRENCH COMMANDER IN CHIEF IN GERMANY

Delegation of the Ministry
of Justice for Research of
War Crimes in Germany

Baden-Baden, 23 February 1948

Chief of the Justice Department

Deputy

N O T E

Being members of the Research Commission of the American Military Tribunal of Nuremberg, Messrs. Emanuel E. MINSKY, Ben VON HALLS, Paul H. HAENI, Alfred ELBAU, have been charged by Brigadier General TAYLOR, Chief of Counsel for War Crimes, to proceed to the French zone of occupation and to carry out research in that zone with respect to leading members of I. G. Farben now being indicted before that Tribunal.

It is convenient to give them assistance in their mission in any possible measure and to hand them copy of documents which might be subject of their interest.

(Signature) A. REBOUL

Stamp

CERTIFICATE OF TRANSLATION

I, Paul H. Haeni, 20050, CCWC, certify herewith that I am thoroughly conversant in both the French and English languages and that the above is a true and correct translation of a note signed by A. Reboul on 23 February 1948, the original of which was in the French language.

(Signed) Paul H. Haeni
Paul H. HAENI
20050, CCWC

330
(32)
Ludwigshafen, 27 February 1948

The Office of Chief of Counsel
To:

The French Administrator of I.G. Farben

We, the undersigned:

Messrs. Alfred H. Elbau and Paul Haeni, members of the Prosecution of
American Military Tribunal of Nurnberg, certify having received the follow-
ing documents:

27 documents (forming a total of 37 pages) taken from files kept in
the office of Mr. Ruff.

Of all the above mentioned documents, microfilm has been taken and
deposited in the safes of the French Administration of I. G. Farben in
Ludwigshafen.

The documents in question could be used as evidence in the trial
against I. G. Farben.

They will be returned undamaged by the Office of Chief of Counsel to
the French Administration of I. G. Farben Ludwigshafen in the shortest
possible time.

(Signed) A. H. ELBAU Paul HAENI

CERTIFICATE OF TRANSLATION

I, Paul H. Haeni, 20050, OCGW, herewith certify that I am thoroughly
conversant with both the French and English languages and that the above
is a true and correct translation of the receipt signed by A. H. ELBAU
and Paul HAENI on 27 February 1948, the original of which was in the
French language.

(Signed) Paul H. Haeni
Paul H. HAENI
20050, OCGW

E E D

-Y-

1471

Surrender, 28 February 1948

United States of America

against

Krupp et al. (Case VI)

152
March 48Reply of the Defense

to the motion of the Prosecution to produce documents, dated
26 February 1948.

Ever since the beginning of the trial before the International Military Tribunal, the defense in every war-crimes trial demanded to be granted access to the documentary material pertaining to the trial to the same extent as the prosecution. As we are going to show, this demand, although not accepted by the bench, as far was not complied with in this trial either.

At the very moment when it is generally realized and discussed publicly that in all trials the defense is, in this respect too, at a disadvantage compared with the prosecution, the prosecution in their motion of 28 February 1948 which they, tellingly enough, handed to the press for publication, attempt to defame the defense with the assertion that the defense withhold from the prosecution, and even destroy, documentary evidence.

We meet vigorously for first against this defamation.

Furthermore, we protest strongly against the prosecution, as part of so-called investigations allegedly intended to establish such so-called offenses of defense counsel, by the use of intimidation, threats and other illoral means, obtaining knowledge of plans, documents, and evidence (for example affidavits) of the defense which up to the time of their presentation before the court are protected by

(page 2 of original)

the professional secrecy of defense counsel which is recognized in all civilized countries.

- 1 -

(Page 2 of original, cont'd.)

The Notice of the prosecution dated 26 February 1948 says in paragraph 3:

"In an interview with Major Hanson, the American officer in charge of the Griesheim Document Center, it was learned that the large shipments of documents (truckloads) from Griesheim to the Ludwigshafen plant were made at the request of Ludwigshafen on the understanding that these files consisted of such things as patents, financial matters necessary to the operation and production of I. G. Farben, Ludwigshafen. Major Hanson did not know that materials concerning only Auschwitz were included in the large volume of documents requested."

The prosecution purposely and intentionally omits to mention the time when these shipments went from Griesheim to Ludwigshafen, and the persons who arranged them. We were informed that this actually happened during the period from the end of 1946 to the middle of 1947, that is, at a time when there existed neither indictment nor defense counsel. Furthermore, according to our information, and the lists kept in Griesheim and Ludwigshafen will show, that even among these documents only a relatively small number of documents concerning Auschwitz, if any. Therefore, these documents were returned in an entirely normal and lawful way from Griesheim to Ludwigshafen where they belonged, and without any initiative or knowledge on the part of defense counsel who did not even exist at the time.

Paragraphs 4 and 5a of the notice of the prosecution show that absolutely identical lists of the documents brought at that time to Ludwigshafen are available both at the Control Office Frankfurt/Main-Griesheim and at the French Administration. From these lists, the prosecution which is frequenting the Control Office at Frankfurt/Main-Griesheim since 1948/49, could at any time ascertain what documents were sent to Ludwigshafen and could screen them

(Page 2 of original, unclassified)

there, or could take them into their possession, just like the defense. Furthermore, this shows that these shipments were made with the direct participation, if not at the instigation, of the Allied control authorities of the I. G. Farbenindustrie A. G.

(Page 3 of original)

The prosecution's own statement in their motion of 21 February 1945 (paragraph 5, e) does not leave the slightest suspicion that the defense, after Goerzen's collapse in spring of 1945, destroyed, or ordered the destruction of, any documents of I. G. Farbenindustrie. Therefore, there is no reason whatsoever why we should reply to the suspicions of the prosecution contained in paragraphs 1 a and b of the Motion.

Therefore, the only remaining question is whether the defense has received documents from the Ludwigshafen plant since the indictment was served (paragraph 5 c, d, f, g) and whether these documents are to be made available also to the prosecution.

The answer to both questions is in the affirmative.

There can not be any doubt that the defense is entitled to use the documents kept at the Ludwigshafen plant. The question of how it is could be carried out in practice, had to be solved by the defense together with the Ludwigshafen plant and its French administration. The fact that the defense actually came into the possession of the documents, and the question whether this was amissible, are matters not under the jurisdiction of the prosecution or any other U. authority; the French Administration and the employees of the Ludwigshafen plant, and possibly defense counsel, between themselves can clear up these matters.

The defense certainly does not deny to the prosecution the right to gain, on their part, information from the documents from the Ludwigshafen files. For, defense counsel are, in contrast to the prosecution, of the opinion that prosecution and defense have equal rights with regard to documentary evidence. In spite

(Page 3 of original, cont'd)

If this our basic attitude, we would be entitled to object, even to prevent the prosecution from withholding information from these documents as long as they on their part do not allow us access to all their documents for examining them, which, as far, they do not do.

(Page 4 of original)

However, in order to set an example to the prosecution we are going to return to the French administration all documents taken from the Lodz-shafer plant and the prosecution may screen the documents there.

The weekly reports from Auschwitz (paragraph 8 of the motion) which are particularly urgently desired by the prosecution for the cross-examination of the defendant Ashros, are immediately turned over by us to the Secretary General who may hand them over to the Prosecution for examination only since we are responsible to the French Administration for them.

We should like to emphasize especially with regard to these documents that, by making them available to the prosecution, we are doing a favor to the prosecution to which they are not at all entitled because of their previous attitude. According to their statement, the prosecution wants to use these documents for preparing the cross-examination of Dr. Ashros. So far, the prosecution neither has made available to the defense the documents which they wanted to, nor have presented during cross-examination (beginning approximately with Exhibit 1840) nor did they open to the defense their offices in the Palace of Justice where these special documents are being kept in order to make the examination of these documents possible.

In spite of available now to the prosecution the above-mentioned documents in the way stated, we expect that the entire material which so far was withheld from us will be handed over at once, and particularly the documents still to be presented during

(Page 4 of original, cont'd)

cross-examinations. If necessary, we herewith apply to the Tribunal for a decision instructing the prosecution to make available to the defense for inspection all documents which so far were held back.

The statement made in paragraph 5 j of the Prosecution's motion of 28 February 1946, that "Dr. Alt gave specific instructions that in the event American authorities should appear at Ludwigsbafen, all documents of interest to the Prosecution and defense were to be secreted and hidden from the view of the Americans" is not true either. The attached affidavit of the member of our defense, Assistant Defense Counsel Dr. Wolfgang Alt of 28 February 1946 proves the opposite to be true.

(page 5 of original)

By means of their actions in Ludwigsbafen which the prosecution described in such detail in their motion they actually succeeded in gaining information on exclusive and most intimate defense documents. This is exactly what Dr. Alt wanted to prevent by his instructions, and the events show how justified these instructions were.

The attached affidavits of Herr Anton Hornig and Miss Gertrud Reither of 28 February 1946 show in detail that:

From other matters, the prosecution took notice of copies of affidavits of witnesses. These were in a folder which according to Dr. Alt's instructions, was for the time being rightly kept secret from the prosecution. Only after the employees Hornig and Reither during interrogation under oath by Messrs. von Telle and Minakoff had been threatened with arrest did they produce the folder which was not returned afterwards.

The affidavits of Dr. Salwert and Dr. Tinn of 28 and 29 February 1946 show that the prosecution committed the following infractions of, and encroachments on the basic rights of the defense:

(Page 5 of original continued)

1) In spite of Dr. Tim's warning the prosecution, through Mr. Tsani, searched the private apartment of Dr. Alt, Assistant Defense Counsel, and without calling in either the French or German police at that.

2) The Prosecution ordered Dr. Tim to name those plant employees who were searching for defense material for the trial, in order to interrogate them subsequently on their activities. The prosecution announced furthermore that they wanted to interrogate Dr. Alt, Assistant Defense Counsel and Mr. Richard Busmann, Defense Counsel (see paragraph 5 and 9 of affidavit by Dr. Tim).

These facts are cause for grave concern to the defense. Those actions taken by the prosecution were most detrimental to the defense and put their clients to a disadvantage. The defense

(Page 6 of original)

must fear that in future they will not be able to conduct the defense in such a manner as is necessary under the basic rules of a "fair trial". If the above-mentioned action of the prosecution and the obvious lack of respect for the rights and privileges of the defense connected therewith is not stopped definitely and energetically.

FOR THE DEFENSE:

(Signature) Dr. Rudolf Dix

Dr. Rudolf Dix.]

CERTIFICATE OF TRANSLATION

2 March 1948

I, Walter E. Celowski, No. 20145, hereby certify that I am thoroughly conversant with the English and German languages, and that the above is a true and correct translation of Ministerial Case Reply of the Prosecution dated 26 February 1948.

Walter E. Celowski
S.I.O. No. 20145

- 5 -

Affidavit.

I, the undersigned, Dr. Bernhard TIMM, born on 29 Sept. 1909, residing at Heidelberg, Am Rosébusch 1, having been warned that I will be liable to punishment if I make a false statement in lieu of oath, herewith declare in lieu of oath that my statements are true and that they were made in order to be submitted as evidence to the Military Tribunal in the Palace of Justice, Nurnberg, for Case VI.

I am a physicist working for the B. I. sche Anilin & Soda Fabrik, Ludwigshafen/Rhine, and there belong to the Management Committee. In this capacity my duties are particularly concerned with the official liaison between the French Administration of the plant and the German works management.

On Friday 20 February 1949, about 1200 I was asked to go to the room of Herrn Richebourg, an employee of the French Administration, and there was introduced to Messrs. Minskoff, von Halle, Kaeni, Elben and Kelter, who told me that they were representatives of the Prosecution of the Nurnberg Military Tribunal and had orders to carry out investigations in our plant. They asked me a great number of questions, most of which concerned the person of Dr. Alt. Furthermore they wanted information about a Gerhard Neumann or Neumann and about Herrn Doerr, an employee of our Patent Department. They also questioned me about various organizational concerns of our works and about the return of some of our confiscated files from the Document Center in Griesheim.

In accordance with my official capacity I did not consider this questioning so much as an interrogation but rather as a preliminary discussion for the program of the Commission. I was informed of the exact program in the afternoon during the interrogation of the head of our Patent Department Dr. Kleber. It was as follows:

- 2 -

The Commission will be staying in Ludwigshafen from 20-23 February 1948 and will also work right through on Saturday 21 February and Sunday 22 February. The following points are to be dealt with:

1. Inspection of all registries of all the departments in the presence of the department chiefs concerned or their deputies.
2. Check of picture collection.
3. Interrogation of the Chief Clerks of the Secretariats of Dr. Ambros and Dr. Wurster.
4. Interrogation of the Personnel chief responsible for the assignment of outside firms during the years 1940-1945.
5. Interrogation of the Betriebszellen^{on}mann (head of factory cell).
6. Interrogation of the then chairman of works advisory council.
7. Interrogation of Dr. Albrecht Weiss.
8. Spying by Dr. Tism or Dr. Alt of those members of the staff who are looking for defense material for Kuerberg and presentation of same for interrogation.
9. Interrogation of Dr. Alt.
- 10.) Interrogation of Gerhard Bismann or Bismann.
- 11.) Summons and interrogation of staff members who had previously worked in the Kueckwitz works and who are now in Ludwigshafen, according to a list given to me.

Following on this several remarks arose out of the various points of this compilation. With regard to item 8) I particularly pointed out that I could not know which members of our staff might be holding themselves available as witnesses for the Defense and were therefore looking for documents. I was told that I would surely be able to find this out by consulting Dr. Alt, who was maintaining a committee for this purpose.

Then I arranged for an emergency staff for Saturday and Sunday in the departments concerned by appointing a leading member and an employee who knew his way around the files.

- 2 -

AFFIDAVIT DR. TIMM

- 3 -

As a precaution I inquired from Herrn Richebourg of the French administration of the RASB whether the activities of the Commission had been authorized by the French authorities. I saw from a teletype message from Baden-Baden which was shown to me that the Commission was authorized to see the files. The teletype message did not mention whether it would or might also interrogate members of the staff, whether it was entitled to put staff members on oath, and particularly whether it was entitled to interrogate staff members, because these were giving information or material to the defense.

Then on Friday afternoon, 20 February the various interrogations started, but I was not present at them. The Commission divided into several groups and carried out its investigations simultaneously in various places.

On Saturday 21 February 1948 they started searching all the file cabinets and desks in the offices of Dr. Alt and Dr. Ambros. The representative of the French administration and the German office staff were present during this search. I was not present at those investigations nor at the lengthy interrogations of the German personnel which followed.

On Saturday 21 February at about 1500 a letter was shown to me in my room by Herrn Richebourg, in which Frl. Reither, an employee of Dr. Alt's office, stated that in Dr. Alt's apartment there was a packing case which apart from other things contain also IG files. Herr Richebourg told me that the American Commission intended to fetch these documents immediately and that a German representative was to be present during this action.

I put on my coat and went with Herr Richebourg to the American Commission. There I stated that I was not entitled to enter Dr. Alt's apartment, nor could I myself authorize any of the gentlemen present to search Dr. Alt's home. I warned all the gentlemen of such a step, which I called unlawful entry and explicitly

- 3 -

AFFIDAVIT DR. TIMM

- 4 -

expressed the opinion that such an act constituted serious interference with the rights of a defence counsel. I further said that none of the persons present had the authority of a police official and therefore were not entitled to enter his apartment without Dr. Alt's permission or to search it. Although I was fully aware that the Commission was about to commit an unlawful act, I made another attempt at peaceful settlement, in order to preserve a completely objective attitude on my part, and suggested that I myself should go to the apartment with a French representative and Frl. Reither, to seal the packing case on the spot there.

The packing case could then stay there until Dr. Alt could be called to come from Saarnberg, so that he himself could give the American and French gentlemen all the necessary information about the contents of ^{the} packing case. Mr. Winkoff rejected this proposal and insisted that the box be fetched immediately. He ordered Mr. Haeni to do this. I protected once more against this imminent police action, and was informed that it was not intended to search the house but merely to fetch back documents out of a packing case in Dr. Alt's apartment which according to Frl. Reither's statements were IG property and which should therefore not be in Dr. Alt's possession. When I then declared that even under those circumstances I was not prepared to give my authority to entering Dr. Alt's apartment, I was told that this was not necessary at all, since it was not intended to search the house in the above meaning of the word, and that no objects would be removed. My presence was only desirable in so far as I could be able to witness that only the IG documents were taken and that nothing else was removed from the apartment. I took notice of this reply and then drove to Dr. Alt's apartment with Frl. Reither, Mr. Haeni and Herrn Eichsbaurg. On the way we met Dr. Helvert, the head of our Personnel Dept. I reported the incident to him and asked him his opinion. Dr. Helvert told everyone present that the measures that were to be taken were exclusively a job for the police. At my request he then accompanied us on our ride to Dr. Alt's apartment and

- 4 -

- 5 -

was present during the events that followed.

As Frl. Reither is known there, a housemaid in Dr. Alt's apartment allowed us to enter Dr. Alt's unlocked room without further ado. After we had entered the room, Frl. Reither established that the packing case was no longer there. After looking round the room carefully no trace of the box was to be seen. Mr. Esaul then had the domestic staff called in and questioned them about the whereabouts of the packing case. He was not able to find out anything. Then we returned to the administrative building of the RAAF again where Dr. Helmut and I left Mr. Esaul, Herrn Richebourg and Frl. Reither. During the evening the chief clerk of Alt's office, Herr Hoodig, informed me that he had been again interrogated and that he had stated that the packing case had been moved from the room in question and taken to another place on his orders. In view of this statement the Commission had called in the French Police, which had then found the box, sealed it properly and taken it to Police Headquarters.

In the late evening of 21 Feb. I told Mr. von Halle that I had made the promised arrangements, that is, for an emergency staff for the week-end, and that I did not intend to be available to him on Sunday. At this point he informed me that he was interested in interrogating me once again, and that he was going to do this on Wednesday 26 Feb. after he had obtained considerably more extensive powers from Muenberg.

From 25 Feb. on the only contact I had with the various representatives of the American Commission was about unimportant questions.
 Ludwigshafen/Rhine, 26 February 1948

Signature: Dr. Bernhard Tirm
 (Dr. Bernhard Tirm)

I, Rechtsanwalt F. W. Wagner, Ludwigshafen/Rhine, herewith certify and witness that the above signature was affixed in my presence by Dr. Bernhard Tirm.

Ludwigshafen/Rhine, 26 February 1948

Signature: F. W. Wagner
 Attorney.

AFFIDAVIT HELBERT

AFFIDAVIT.

I, the undersigned, Dr. Fritz HELBERT, Ludwigshafen / Rhine, have been informed of the meaning of an affidavit, I know in particular that I am to speak the pure truth, that this affidavit is to be used as evidence by the American Military Tribunal in the Palace of Justice at Nuernberg in Case VI, and I state in lieu of oath that the following statements correspond to the truth.

I am a chemist in the employ of the Badische Anilin- & Soda-Fabrik in Ludwigshafen/Rhine and the head of the Personnel and Social Welfare Departments. At the same time I belong to the managing committee of the plant.

On Saturday 21 February 1948, at about 1530 hours Mr. BARTHELMAE of the Patent Department called me up in my apartment, and asked whether I could tell him which employee of the Purchasing Department would be on call, since the American Commission that was in the plant would like to go with him to the Purchasing Department, and that he did not want to enter the offices without an employee of the Purchasing Department being present. I told Mr. BARTHELMAE over the 'phone that I had the list of people who were available for duty in my office, and that I would come to the plant at once.

On the way to the plant, it may have been around 1600 hours, an American car stopped in front of me. Dr. TIMM (BAEF) and shortly thereafter Mr. RICHEBOURG (French Administration of BASF) left the car. Dr. TIMM informed me that according to a statement of Miss REITHER a pecking case with I.G. documents was in the apartment of Dr. ALT; and that Mr. HAENI, a member of the American Commission, and Mr. RICHEBOURG wanted to get this pecking case. I at once informed Dr. TIMM and Mr. RICHEBOURG that this was impossible. As Dr. ALT was not present, this would be entry (Eindringen) into a private home, and this would only be possible on the strength of a court order. In this case that would be especially out of place because Dr. ALT was part of the Defense in Nuernberg. Thereupon Mr. RICHEBOURG called Mr. HAENI out of the car, who simply settled the matter by stating that he would take the responsibility, and we should only accompany him in order to witness that he did not take anything else with him.

AFFIDAVIT HELWERT

Only hesitatingly, since I was fully aware that the Commission was about to undertake an illegal act, and only at the request of Dr. TIMM, I finally accompanied the Commission to the apartment of Dr. ALT.

Dr. ALT lives in the bachelor's quarters of the plant. When we arrived there the door was opened by the maid without any hesitation, since it was known that Miss REITHER took care of Dr. ALT's private matters. Without being accompanied by an employee of the bachelor's quarters we went to Dr. ALT's room, which was not locked. I was the last one to go and remained standing in the doorway. Miss REITHER, who went ahead, found out at once that the packing case in question was no longer there. After the Commission had viewed the room carefully the packing case still could not be found. Mr. HAENI then had the domestic employees called, and interrogated them about the whereabouts of the packing case. He could find out nothing.

At the suggestion of Mr. HAENI we all returned to the Administrative building of BASF in his car, where I and Dr. TIMM separated from Mr. HAENI, Mr. RICHEBOURG and Miss REITHER.

I then, went to the gate-keeper's lodge where Mr. BARTHELMAS awaited me. I then gave him the names of the gentlemen from the Technical Department and the Purchasing Department who were on call.

Ludwigshafen/Rhine 25 February 1948/D

signature: Dr. Fritz HELWERT

The above signature, affixed by Dr. Fritz HELWERT, is certified and attested by me, Attorney at Law Friedrich Wilhelm WAGNER.

Ludwigshafen, 26 February 1948

signature: F.W. WAGNER.

CERTIFICATE OF TRANSLATION.

2 March 1948

I, Hanna Ed. GLEICHMAN AGO-No. A-443 029 hereby certify that I am a duly appointed translator for the German and English languages and that the above is a true and correct translation of AFFIDAVIT HELWERT.

Hanna Ed. GLEICHMAN
A- 443 029
- 2 -

Affidavit

I, Dr. Wolfgang Alt, resident in Ludwigshafen/Rhine, Bunsenstrasse 4, having been warned that I will be liable to punishment if I make a false statement in lieu of oath, herewith declare in lieu of oath that my statements are true and were made in order to be submitted as evidence to Military Tribunal VI in the Palace of Justice, Nuremberg, Germany.

Since I have been working for the Defense in Nuremberg I have endeavored to keep purely defense documents, which I understand to mean everything not consisting of files or documents of the IG, separate from these files and documents. For this purpose I have usually kept this so called purely defense material in my apartment, in a wooden packing case which could not be locked, which was placed underneath my table. Soon it appeared that in actual practice it is not possible to maintain this strict separation. Therefore it also occurred that the so called purely defense material was kept in the business offices of the Ludwigshafen works. Of course I expected that the Prosecution would look into the files of the Ludwigshafen works. I particularly expected this at the time when the documents of IG were submitted in the IG documents books or handed in at Nuremberg for translation and mimeographing. The Prosecution could assume from the documents or from the attached certificates about the location of the documents concerned that possibly, for instance in the case of letters and correspondence, the documents of preceding or following dates might also be in Ludwigshafen.

Therefore I instructed my employees, as already previously, that in case the Prosecution were to search for such documents in Ludwigshafen, the purely defense materials must in any case

(Page 2 of original)

be kept out of the hands or from the knowledge of the Prosecution. I never gave any instructions that IG documents should be hidden, nor did I ever give any instructions that all documents that might be of importance either the Prosecution or the Defense should be gotten out of the way.

Nuremberg, 28 February 1948 (signature) Dr. Wolfgang Alt

I, Rechtsanwalt Ernst Felckmann, herewith certify and witness that the above signature was affixed in my presence by Dr. Wolfgang Alt, resident in Ludwigshafen/Rhine, Bunsenstr. 4. Nuremberg, 28 February 1948 (signature: Felckmann)

CERTIFICATE OF TRANSLATION

21 March 1948

I, Hanns Ed. Gleickman, AGO-No. A-443029 hereby certify that I am a duly appointed translator for the German and English languages and that the above is a true and correct translation of the Affidavit ALT.

Hanns Ed. Gleickman
A-443029

END

AFFIDAVIT REITHER

AFFIDAVIT:

I, Gertrud REITHER, resident in Ludwigshafen/Rhine, AnilinstraÙe 46, having first been warned that I will be liable to punishment if I make a false statement in lieu of oath, herewith declare in lieu of oath that my statements are true and were made in order to be submitted as evidence to Military Tribunal VI in the Palace of Justice at Nuernberg, Germany.

I have been employed by IG Farbenindustrie Aktien-gesellschaft Ludwigshafen am Rhein works since 15 December 1939. I have been working in Dr. ALT's office since July 1945.

On the afternoon of Friday, 20 February 1948 Herr Anton BOENIG ordered me to remove the files of the Defence, which were lying in our office, from view. I carried out this order and placed the files in a ward robe one floor higher up.

On Saturday 21 February 1948 about 1300 I was informed by the works security detachment that I was to go to Building Lu I, and I complied with this request. When I arrived in Building I I was interrogated by a gentleman who only during the course of the interrogation identified himself as a member of the Prosecution. I was immediately put under oath. During the interrogation I had to admit removing the files from view, and had to bring them back.

I was also asked about a packing case which had been in Dr. ALT's room. The search conducted by a member of the Prosecution and a member of the French Administration, which was carried out in my presence and that of Herrn Dr. TIMM, who was joined by Dr. HELFERT en route at the request of the other gentlemen, proved in vain. Dr. TIMM and Dr. HELFERT showed the French and American gentlemen quite clearly that they could not consider the visit to Dr. ALT's apartment to be legal. At first they refused to go with them.

When we had returned to Building Lu I I was again interrogated. Mr. von HALLS, whose name I had found out in the meantime, threatened me with immediate arrest and search of my apartment if the packing case were not produced immediately.

AFFIDAVIT REITHER

(page - 1 - of original ,cont'd.)

Then the Surêté was informed and the Bachelors' Hostel, where Dr. ALT's room is located, was again visited. The housekeeper of the Bachelors' Hostel was interrogated in the presence of two officials of the Surêté. Then the box was found, sealed by the Surêté and taken away.

Ludwigshafen/Rhine, 26 February 1948

signature: Gertrud REITHER.

I, Rechtsanwalt Friedrich Wilhelm WAGNER, resident in Ludwigshafen/Rhein, Schiesshausstrasse 32, herewith certify and witness that the signature on the previous page was affixed in my presence by Fraulein Gertrud REITHER, resident in Ludwigshafen/Rhine, Anilinstrasse 46.

Ludwigshafen/Rhine, 26 February 1948

signed F.W. WAGNER
attorney.

CERTIFICATE OF TRANSLATION.

2. März 1948.

I, Hanns Ed. GLEICHMAN, AGO-No. A-443 029 hereby certify that I am a duly appointed translator for the German and English languages and that the above is a true and correct translation of the
AFFIDAVIT REITHER.

Hanns Ed. GLEICHMAN

A- 443 029

AFFIDAVIT HOENIG

Affidavit

I, Anton Hoenig, residing at Ludwigshafen am Rhein, Siemensstrasse 11, have been warned that I expose myself to punishment if I make a false statement in lieu of oath. I state in lieu of oath that my testimony corresponds to the truth, and was made to be presented as evidence to the Military Tribunal VI at the Palace of Justice at Nuernberg, Germany.

I have been employed at the IG Farbenindustrie Aktiengesellschaft Ludwigshafen am Rhein plant since 5 February 1927, and have worked since September 1943 in the office of Dr. Alt.

After the noon break/
On Friday, 20 February 1948, I, Anton Hoenig, saw an American car standing in front of the L u I building. The term "Bura" printed on the number plate suggested to me that this might be a car of the Nuernberg trial authorities. Since I did not want, and since I had also been told by Dr. Alt that the material of the defense was not to be made available to the Prosecution, I instructed my associate, Miss Reither, to get our files out of sight.

On Saturday morning at about 10 AM I was informed by telephone that I should come at once to building 1. I obeyed this request. When I arrived in building 1, I was told in the presence of French gentlemen that I was to unlock all file cases and desks in my office. They were searched by American gentlemen. Little was found. I remember a blue folder which contained correspondence of Mr. FAUST with various firms and carbon copies of his affidavits. I remember notes and memos referring to Count Ill of the indictment. I remember a plan of Auschwitz with drawn-in air-raid protection installations, as well as our Gendorf folder with the current mail. I was thereupon interrogated by two American gentlemen, who were unknown to me and whose names I found out only later on. They were Messers. von Halle and Minskoff. The interrogation was rather sharp, and after a few questions Mr. von Halle told me: "You are not telling the truth, I must put you under oath. Rise and say after me". I was not prepared for such surprise tactics, and repeated the oath after him. During the course of the interrogation I had to admit that I had gotten documents out of the way, thereupon had to make them available to the two gentlemen. The documents concerned were incoming and outgoing correspondence, various negatives, sketches and similar things. The interrogation lasted 1 1/2 hours and I was told several times in the course of the interrogation that I would be arrested. When Mr. Minskoff found negatives of requests for credits for Auschwitz among the documents, he showed them to me very clearly and asked whether they were so documents. In the course of the afternoon I had to admit during the discussions that there were more documents at two other places. Miss Reither got the documents from the one place. She had meanwhile also been called, put under oath and interrogated. In the second place there were, among other things a folder with copies of affidavits of witnesses. Although Mr. von Halle had told me repeatedly that the Prosecution was not interested in pure defense documents, this folder, as well as the folder with letters of Mr. Faust and our folder with incoming and outgoing mail, was not returned.

AFFIDAVIT HOENIG

- 2 -

At the third location there was mail received from Dr. Ambros in Stornberg and our answers to this mail. Since I was not sure whether they included documents, in the sense of the Prosecution, I had informed Mr. von Halle of these things. Both these folders had been placed some time ago into a packing case in the house of Dr. Alt, and at my instigation this packing case was removed from the room of Dr. Alt. As I heard later on, the box could not be found.

Thereupon, Mr. Richbourg informed the Surêté, which arrived shortly thereafter with two officers. Accompanied by a gentleman from the Prosecution, Mr. Richbourg, Miss Reither and myself, the bachelor quarters was visited for a second time. I had to remain in the car and had to wait for the result of the investigation, while the others went into the bachelor quarters. After about ½ hour they returned with the packing case. It had been sealed and was taken away by the gentlemen of the Surêté.

For this day, the investigation was over. I was told to appear again the next day, that was Sunday, 22 February 1948, at 1000 hours.

At 1020 Mr. von Halle came to my office and told me to come to his room at 1030. He wanted to continue the interrogation at once. He stated that I was still under oath from yesterday's interrogation. I thereupon demanded legal assistance. This was denied to me. Mr. von Halle said to me, "Do you want to talk at once, or do you want to be arrested first?" At any rate, I did not receive legal assistance. Mr. Richbourg was present at this interrogation. The interrogation lasted 1½ hours again. It concerned mainly the topic whether the defense had any connections with CIC or any other offices of the Prosecution. Since I do not know anything about this, I could deny this question at once. I was also asked what persons would be working for the defense in Ludwigshafen and in Stornberg. In the course of the afternoon Mr. von Halle and I worked out an affidavit about parts of my statements, which I then signed.

Ludwigshafen am Rhein, 26 February 1948.

signed: Anton Hoenig.
(Signature)

The above signature of Anton Hoenig, residing at Ludwigshafen am Rhein, Schloosstrasse 11, affixed in the presence of me, Attorney at Law Ludwig Wilhelm Wagner, residing at Ludwigshafen am Rhein, Schloosstrasse 32, is hereby certified and attested by me.

Ludwigshafen am Rhein, 26 February 1948

signed: F. W. Wagner (Signature)
Attorney at Law

CERTIFICATE OF TRANSLATION

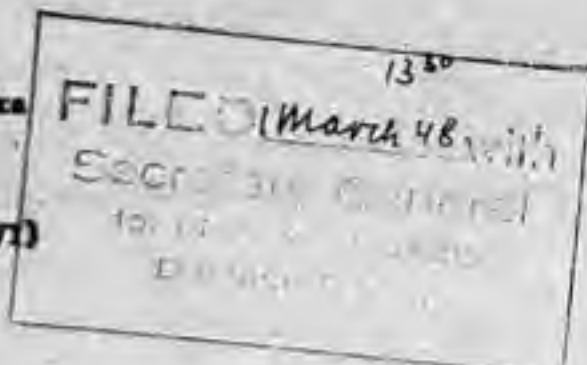
2 March 1948

I, Hanns Gleichman, AGO No. A 443029, hereby certify that I am a duly appointed translator for the German and English languages and that the above is a true and correct translation of Affidavit Hoenig.

Hanns Gleichman
AGO No. A 443029

6 12 330
(51)
Huerberg, 26. Februar 1948.

In der Strafsache
Vereinigte Staaten von Amerika
gegen
KRAUCH und andere (Fall VI)



Erwiderung der Verteidigung

auf den Antrag der Prosecution auf Herbeischaffung von Dokumenten vom
26. Februar 1948.

Seit Beginn des Prozesses vor dem Internationalen Militär-Tribunal fordert die Verteidigung in allen Kriegsverbrecher-Prozessen, dass ihr zu dem auf den Prozessstoff bezüglichen Dokumentenmaterial ebenso Zutritt gewährt werden soll wie der Anklagebehörde. Wie wir noch zeigen werden, konnte diese Forderung auch in diesem Prozess bisher nicht durchgesetzt werden, obwohl das Gericht den Wunsch der Verteidigung unterstützte.

In dem Augenblick, in dem fuer alle Prozesse diese Erkenntnis der Benachteiligung der Verteidigung gegenüber der Prosecution auch in diesem Punkte allgemein wird und in der Öffentlichkeit diskutiert wird, versucht die Anklagebehörde mit ihrem Antrage vom 26. Februar 1948, den sie bezeichnenderweise der Presse zur Veröffentlichung übergeben hat, die Verteidigung durch die Behauptung zu diffamieren, sie entziehe der Prosecution Dokumente und vernichte sie sogar.

Wir protestieren gegen diese Verleumdung mit aller Deutlichkeit.

Wir protestieren ferner energisch dagegen, dass die Prosecution im Zuge angeblicher Ermittlungen zur Feststellung solcher angeblichen Verstöße der Verteidigung mit Hilfe von Druck und Knechtschreierung und unter Anwendung anderer ungesetzlicher Mittel sich Kenntnis verschafft hat von Plänen, Unterlagen und Beweismaterial (z.B. Affidavits) der Verteidigung, die bis zu ihrer Produktion vor Gericht durch das in allen

Kulturländern anerkannte Berufsgeheimnis des Verteidigers geschmetzt sind.

Der Antrag der Prosecution vom 26.2.48 sagt in Ziffer 3: "In einer Unterredung mit Major Hanson, dem amerikanischen Offizier, welcher Griesheim Document Center leitet, wurde herausgefunden, dass grosse Sendungen von Dokumenten (Lastwagen) von Griesheim an das Werk Ludwigshafen auf Wunsch von Ludwigshafen gemacht wurden, unter der Annahme, dass diese Akten aus Sachen bestanden, die Patente und finanzielle Sachen, welche zur Tauglichkeit und Produktion von I.G. Farben Ludwigshafen notwendig waren. Major Hanson wusste nicht, dass war Material, welches sich auf Anschütz bezog, in der grossen Anzahl der verlangten Dokumente enthalten war." Die Prosecution verschweigt hierbei wohlweislich, wann diese Sendungen von Griesheim nach Ludwigshafen gingen und von wem sie veranlasst worden sind. Tatsächlich geschah das - wie wir erfahren haben - Ende 1945 bis Mitte 1946, also zu einem Zeitpunkt, als weder eine Anklageschrift noch eine Verteidigung existierte. Ausserdem befanden sich ^{darunter} - wie wir erfahren haben und wie sich aus den in Griesheim und Ludwigshafen geführten Listen ergeben muss - wenn überhaupt, nur in verhältnismässig geringem Umfang Akten, die Anschütz betrafen. Diese Akten sind also völlig normal und legal von Griesheim nach Ludwigshafen zurueckgegeben worden, wohin sie ja gehoerten, und zwar ohne jede Veranlassung oder Kenntnis seitens der Verteidigung, die es damals nicht gab.

Wie sich aus Ziffer 4 und Ziffer 5a des Antrags der Prosecution ergibt, sind beim Control Office Frankfurt/W.-Griesheim und bei der französischen Administration Listen ueber diese damals nach Ludwigshafen gebrachten Dokumente vorhanden, die voellig uebereinstimmen. Aus diesen Listen konnte die Prosecution, die bereits seit 1945/46 das Control Office Frankfurt/W.-Griesheim benutzt, jederzeit ersehen, welche Dokumente nach Ludwigshafen gegangen sind und konnte sie dort ebenso einsehen bzw. in Besitz nehmen wie die Verteidigung. Daraus ergibt sich weiter, dass diese Versendung, wenn nicht auf Veranlassung, so doch unter unmittelbarer Beteiligung der Alliierten Kontrollbehoerden der I.G. Farbenindustrie A.G. vorgenommen ist.

Nach dem eigenen Vortrag der Anklagebehörde in ihrem Antrag vom 26.2.48 (Absatz 5 e) besteht auch nicht der leiseste Verdacht, dass die Verteidigung nach dem deutschen Zusammenbruch im Frühjahr 1945 irgendwelche Dokumente der I.G. Farbenindustrie herstellt oder entsprechende Anweisung gegeben hat. Es besteht daher für uns nicht die geringste Veranlassung, zu den Verdächtigungen der Anklagebehörde, die sich aus den Anträgen zu Ziffer 1a und b ergeben, irgendwie Stellung zu nehmen.

Es kann sich daher nur noch um die Frage handeln, ob die Verteidigung seit Zustellung der Anklage Dokumente vom Werk Ludwigshafen erhalten hat (Ziffer 5 c, d, f, g), und ob diese auch der Prosecution zur Verfügung stehen sollen.

Beides ist zu bejahen.

Dass die Verteidigung ein Recht auf Zutritt zu den Dokumenten im Werk Ludwigshafen hat, ist unumwandelhaft. Wie sie dieses Recht realisierte, war eine Frage, die sie mit dem Werk Ludwigshafen und seiner französischen Administration zu lösen hatten. Dass die Verteidigung auch in den Besitz der Dokumente gelangte und ob dies zulässig war, ist eine Angelegenheit, welche nicht der Jurisdiction der Prosecution oder irgendeiner US-Behörde unterliegt, sondern zwischen der französischen Administration und den Angestellten des Werks Ludwigshafen und eventuell der Verteidigung geklärt werden kann.

Die Verteidigung bestreitet der Anklagebehörde keineswegs das Recht, ebenfalls von den aus Ludwigshafen stammenden Dokumenten Kenntnis zu nehmen. Wir vertreten nämlich - im Gegensatz zur Prosecution - die Ansicht, dass Prosecution und Verteidigung hinsichtlich des Dokumentenmaterials die gleichen Rechte haben. Trotz dieser unserer grundsätzlichen Einstellung waren wir berechtigt zu widersprechen, ja zu verhindern, dass die Prosecution von diesen Urkunden jetzt Kenntnis nimmt, solange sie nicht ihrerseits uns ihre sämtlichen Dokumente zur Einsicht zur Verfügung stellt, was bisher nicht geschehen ist.

Um aber der Prosecution ein Beispiel zu geben, werden wir sämtliche aus dem Werk Ludwighafen entnommene Dokumente der französischen Administration wieder zurückschicken, wo die Prosecution sie einsehen mag.

Die fuer das Kreuzverhoer des Angeklagten Ambros seitens der Prosecution besonders dringend begehrten Wochenberichte aus Auschwitz (Ziff. 8 des Antrags) uebergeben wir dem Herrn Generalsekretaer sogleich, der sie der Prosecution ueberlassen mag - jedoch nur zur Einsicht, da wir der franzoesischen Administration gegenueber verantwortlich sind.

Besonders hinsichtlich dieser Dokumente moechten wir betonen, dass wir mit ihrer Bereitstellung der Prosecution eine Chance gewahren, auf die sie nach ihrem bisherigen Verhalten keinerlei Anspruch hat. Die Prosecution will -wie sie sagt- diese Dokumente zur Vorbereitung des Kreuzverhoers des Dr. Ambros verwenden. Bisher hat die Prosecution der Verteidigung weder vorher ihre Dokumente zur Verfuegung gestellt, die sie im Kreuzverhoer vorlegen wollte oder vorgelegt hat (beginnend etwa mit Exhibit 1840 und folgende), noch hat sie ihre Raume mit ihren besonderen Dokumenten in diesem Justizgebäude der Verteidigung zum Zwecke der Durchpruefung geoeffnet.

Wenn wir nunmehr die genannten Dokumente in der geschilderten Weise der Prosecution zur Verfuegung stellen, dann gehen wir davon aus, dass das gesamte Material, das uns bisher vorenthalten worden ist, jetzt umgehend herausgegeben wird, insbesondere also auch Dokumente, die noch in Kreuzverhoeren vorgehalten werden sollen. Notfalls bitten wir das Hohe Gericht, die Prosecution durch Beschluss dazu anzuhalten, alle Dokumente, die sie bisher zurueckgehalten hat, zur Einsicht zur Verfuegung zu stellen.

Auch die Behauptung des Antrags der Prosecution vom 26.2.48 in Ziffer 5 d), dass Dr. Alt [ausdruecklichen Befehl gegeben hatte, alle Dokumente, welche fuer die Staatsanwaltschaft und die Verteidigung von Interesse waren, versteckt werden sollten und den Amerikanern vorenthalten werden sollten] trifft nicht zu. Das Gegenteil ergibt sich aus der beigefuegten eidestaetlichen Versicherung des Mitglieds unseres Verteidigungsstabes, Assistant Defense Counsel Dr. Wolfgang A l t, vom 28.2.1948.

Durch ihr Vorgehen in Ludwigshafen, welches die Anklagebehörde in ihrem Antrag so breit schildert, ist es ihr tatsächlich gelungen, Einblick in ausagesprochene und intimstes Verteidigungsmaterial zu nehmen. Gerade das wollte Dr. Alt durch seine Anordnungen vermeiden und es zeigt sich, wie berechtigt diese Anordnungen waren.

In einzelnen ergibt sich aus dem in der Anlage uherreichten Eidesstattlichen Erklärungen des Herrn Anton Hoenig und des Fräulein Gertrud Reither vom 26.2.48 folgendes:

Die Prosecution hat Kenntnis erhalten ^{unter anderem} von Kopien von eidesstattlichen Erklärungen von Zeugen. Diese befanden sich in einer Mappe, welche entsprechend der Anordnung des Herrn Dr. Alt mit Recht vor der Prosecution zunächst geheimgehalten wurde. Erst auf die von den Herren von Halle und Minskoff dem Angestellten Hoenig und Reither ^{bei ihren Vernehmungen unter Eid} gegenüber ausgesprochenen Drohungen mit Verhaftung wurde sie von diesen herbeigeschafft und ihnen nicht wieder ausgehändigt.

Aus den eidesstattlichen Versicherungen der Herren Dr. Halwert und Dr. Timm vom 25. und 26.2.48 ergeben sich folgende Uebergriffe und Eingriffe der Prosecution in die Grundrechte der Verteidigung:

- 1) Trotz der Warnung des Herrn Dr. Timm nahm die Prosecution durch Mr. Haei in der Privatwohnung des Herrn Dr. Alt, Assistant Defense Counsel, eine Hausdurchsuchung vor und zwar ohne Hinzuziehung französischer oder deutscher Polizei.
- 2) Die Prosecution forderte Dr. Timm auf, ihr diejenigen Werkzeugebesitzer zu benennen, die Verteidigungsmaterial fuer den Prozess suchen, um sie sodann ueber ihre Taetigkeit zu vernehmen. Die Prosecution gab ferner bekannt, dass sie Dr. Alt, Assistant Defense Counsel und Herrn Gerhard Neumann, Defense Counsel, vernehmen wollte (siehe Ziffer 8 und 9 des Affidavits Dr. Timm).

Dieser Sachverhalt erfuilt die Verteidigung mit tiefer Sorge. Durch dieses Vorgehen der Prosecution hat die Verteidigung in ihren Rechten bereits schweren Schaden zum Nachteil ihrer Klienten erlitten. Sie

man befürchten, dass sie in Zukunft ihre Verteidigung nicht so führen kann, wie es nach den Grundregeln eines "fair trial" notwendig ist, wenn dem gekennzeichneten Vorgehen der Prosecution und ihrer damit offenbarten Missachtung der Rechte der Verteidigung nicht entschieden Einhalt geboten wird.

FÜR DIE GESAMTVERTEIDIGUNG:

Dr. Rudolf Dix

Dr. Rudolf DIX

5 H

330

(57)

Eidesstattliche Erklärung :

Ich der Unterszeichnete Dr. Bernhard T i m m , geboren am 29.9.1909, wohnhaft Heidelberg, Am Rosenbusch 1, bin darauf aufmerksam gemacht worden, dass ich mich strafbar mache, wenn ich eine falsche eidesstattliche Erklärung abgebe. Ich erkläre an Eidesstatt, dass meine Aussage der Wahrheit entspricht und gemacht wurde, um als Beweismaterial dem Militärgerichtshof im Justizpalast Nürnberg für den Fall 6 vorgelegt zu werden.

Ich bin Physiker im Dienste der Badischen Anilin- & Soda-Fabrik, Ludwigshafen a.Rh., und gehöre dort dem Direktionsausschuss an. In dieser Eigenschaft bin ich in besonderen mit der Wahrnehmung der dienstlichen Beziehungen zwischen der französischen Administration des Vorkes und der deutschen Verke-
leitung beauftragt.

Am Freitag, den 20.3.48, etwa um 12^h, wurde ich in dem Zimmer von Herrn Richabourg, einem Angestellten der französischen Administration, gebeten und dort den Herren Minskoff, v. Halle, Sami, Elben und Kalter vorgestellt, die mir eröffneten, dass sie als Vertreter der Anklagebehörde des Nürnberger Militärgerichtes beauftragt seien, in unseren Werk Erhebungen anzustellen. Sie richteten an mich eine größere Zahl von Fragen, die sich im wesentlichen auf die Person des Herrn Dr. Alt bezogen; sie verlangten ferner Auskünfte über einen Herrn Gerhard Neumann oder Hermann, sowie über Herrn Börr, einen Angestellten unserer Patentabteilung. Ferner befragten sie mich über verschiedene organisatorische Belange unseres Werkes und über die Rückgabe eines Teiles unserer beschlagnahmten Akten aus dem Document Center in Wiesbaden.

Entsprechend meiner dienstlichen Stellung habe ich diesen Befragung nicht so sehr als ein Verhör aufgefasst, sondern gewissermaßen als Vorbesprechung für das Arbeitsprogramm der Kommission. Das genaue Programm wurde mir sodann am Nachmittag gelegentlich einer Versammlung des Leiters unserer Patentabteilung, Dr. Kleber, bekanntgegeben. Es lautete wie folgt:

RTM

Die Kommission wird vom 20. bis 23.2.48 in Ludwigshafen sein und auch am Sonnabend, den 21.2. und Sonntag, den 22.2. dauernd durcharbeiten. In einzelnen sollen folgende Punkte behandelt werden:

1. Besichtigung sämtlicher Registraturen aller Abteilungen in Gegenwart der zuständigen Abteilungsleiter oder ihrer Stellvertreter.
2. Kontrolle der Bildersammlung.
3. Vernehmung der Vorstände der Sekretariate Dr. Ambros und Dr. Wurster.
4. Vernehmung des für den Einsatz von Fremdfirmen in den Jahren 1940 bis 1945 verantwortlichen Personalchefs.
5. Vernehmung des Betriebsstellenobmanns.
6. Vernehmung des derzeitigen Betriebsratsvorsitzenden.
7. Vernehmung von Dr. Albrecht Weiß.
8. Benennung durch Dr. Timm oder Dr. Alt derjenigen Werkeangehörigen, die Verteidigungsmaterial für Nürnberg suchen und Vorführung derselben zum Zwecke der Vernehmung.
9. Vernehmung von Dr. Alt.
10. Vernehmung von Gerhard Neumann oder Naumann.
11. Verladung und Vernehmung der auf einer mir übergebenen Liste aufgeführten Werkeangehörigen, die früher im Werk Auschwitz tätig waren und jetzt in Ludwigshafen sind.

Zu den einzelnen Punkten dieser Aufstellung ergaben sich anschliessend noch kurze Bemerkungen; ich wies zu Punkt 8 insbesondere darauf hin, dass ich nicht wissen könne, welche Mitglieder unserer Belegschaft sich evtl. als Zeugen für die Verteidigung zur Verfügung halten und zu diesem Zwecke Material suchen. Es wurde mir daraufhin bedeutet, diese Ermittlung würde mir durch Einschaltung von Dr. Alt sicher möglich sein, der zu diesem Zwecke ein Komitee unterhalte.

Anschliessend habe ich es unternommen, in den in Frage kommenden Abteilungen für einen Bereitschaftsdienst über Samstag und Sonntag durch einen leitenden Herrn und einen ortskundigen Re-

JSK

gistraturführenden zu sorgen.

Vorzuglich erkundigte ich mich bei Herrn Richabourg von der französischen Administration der BASF, ob die Tätigkeit der Kommission von den vorgesetzten französischen Behörden genehmigt worden sei. Ich entnahm einem mir vorgelegten Fernschreiben aus Baden-Baden, dass die Kommission ermächtigt sei, einen Einblick in Akten zu nehmen. In dem Fernschreiben war nichts darüber gesagt, dass sie auch Vernehmungen von Werksangehörigen durchführen werde oder dürfe, ob sie das Recht habe, Werksangehörige zu verurteilen und ob sie insbesondere das Recht habe, Werksangehörige aus dem Grunde eines Verhör zu unterzeichnen, weil diese der Verteidigung Auskünfte oder Material zur Verfügung stellen.

Am Freitag, den 20.2. nachmittags begannen sodann die einzelnen Vernehmungen, bei denen ich nicht mehr zugegen war. Die Kommission teilte sich in mehrere Gruppen auf und führte ihre Verhandlungen s.T. gleichzeitig an getrennten Stellen.

Am Sonnabend, den 21.2.48 wurde mit einer Durchsuchung aller Aktenschränke und Schreibtische in den Büros von Dr. Ambros und Dr. Alt begonnen. Bei diesen Untersuchungen waren Vertreter der französischen Administration und das deutsche Büropersonal zugegen. Ich habe diesen Untersuchungen und auch den sich anschließenden langandauernden Vernehmungen des deutschen Personals nicht beigewohnt.

Am Sonnabend, den 21.2.48 gegen 15 Uhr wurde mir durch Herrn Richabourg in meinem Zimmer ein Schreiben vorgelegt, in welchem Frä. Reither, eine Angestellte aus dem Büro von Dr. Alt, angab, dass sich in der Wohnung von Dr. Alt eine Kiste befände, in welcher neben anderen Dingen auch IG-Akten enthalten seien. Herr Richabourg eröffnete mir, dass die amerikanische Kommission beabsichtige, diese Dokumente sofort zu holen und dass ein deutscher Vertreter bei dieser Handlung zugegen sein solle. Ich sag mich an und ging mit Herrn Richabourg zu der amerikanischen Kommission. Dort meinte ich geltend, dass ich nicht berechtigt sei, die Wohnung von Dr. Alt zu betreten und auch keinem der anwesenden Herren von mir aus das Recht auf eine Haussuchung bei Dr. Alt zugestehen könne. Ich warnte alle Herren vor einem derartigen Schritt, den ich als Hausfriedensbruch be-

zeichnete und vertrat nachdrücklich die Auffassung, dass eine derartige Handlung ein schwerer Eingriff in die Rechte eines Verteidigers sei. Ich bemerkte weiter, dass keiner der Anwesenden die Befugnisse eines Polizeibeamten habe und daher nicht ermächtigt sei, ohne das Einverständnis von Dr. Alt in seine Wohnung einzudringen oder eine Hausdurchsuchung vorzunehmen. Obwohl ich mir also vollkommen klar war, dass die Kommission im Begriffe stand, eine gesetzwidrige Handlung zu begehen, machte ich trotzdem, um von meiner Seite eine völlig objektive Haltung zu wahren, noch den Versuch einer gütlichen Regelung, indem ich vorschlug, dass ich selbst in Begleitung eines französischen Vertreters mit Frä. Reither in die Wohnung gehen wolle, um dort die Kiste an Ort und Stelle zu versiegeln. Sie solle dann dort verbleiben, bis es möglich gewesen wäre, Dr. Alt aus Nürnberg kommen zu lassen, damit er selbst den amerikanischen und französischen Herren alle wünschenswerten Auskünfte über den Inhalt der Kiste erteilen könne. Herr Minskoff lehnte diesen Vorschlag ab und bestand auf sofortige Herbeiführung der Kiste. Er beauftragte Herrn Haeni, diesen zu tun. Ich protestierte noch einmal gegen die bevorstehende Polizeiaktion und wurde dann dahingehend unterrichtet, dass es nicht beabsichtigt sei, eine Hausdurchsuchung durchzuführen, sondern dass man lediglich aus einer Kiste in der Wohnung Dr. Alt Dokumente zurückholen wolle, die nach dem Zeugnis von Frä. Reither IG-Eigentum seien und somit nicht im Besitz von Dr. Alt sein dürften. Als ich daraufhin erklärte, dass ich mich auch unter diesen Umständen nicht bereitfände, meine Autorität zu einem Eindringen in die Wohnung von Dr. Alt zur Verfügung zu stellen, wurde mir bedeutet, dass dies auch gar nicht nötig sei, da man in dem obigen Sinne keine Hausdurchsuchung durchführe und keinerlei Gegenstände entwenden werde. Meine Anwesenheit sei nur insoweit erwünscht, damit ich besorgen könne, dass man sich darauf beschränkt habe, die IG-Dokumente zu holen und dass man sonst nichts aus der Wohnung entnommen habe. Ich habe diese Erwidlung zur Kenntnis genommen und bin dann mit Frä. Reither, Herrn Haeni und Herrn Richebourg zur Wohnung Dr. Alt gefahren. Unterwegs begegneten wir Herrn Dr. Helwert, dem Leiter unserer Personalabteilung. Ich berichtete ihm von dem Vorfall und bat ihn um seine Meinung. Dr. Helwert erklärte allen Anwesenden, dass für die bevorstehende Maßnahme ausschließlich die Polizei zuständig sei. Auf meine Bitte begleitete er uns sofort bei der Fahrt zur Wohnung Dr. Alt und war

Stiller

bei den späteren Ereignissen zugegen.

Bm
In der Wohnung Dr. Alt wurde uns, da Frl. Reither dort bekannt ist, von einem Hausmädchen ohne weitere Frage der Zugang zu dem unverschlossenen Zimmer von Dr. Alt gestattet. Nachdem wir das Zimmer betreten hatten, stellte Frl. Reither fest, dass die Kiste nicht mehr dort ^{war} wäre. Bei einer sorgfältigen Betrachtung des Zimmers konnte keine Spur von der Kiste festgestellt werden. Herr Haeni liess daraufhin die Hausangestellten rufen und verhörte diese über den Verbleib der Kiste; er konnte nichts erfahren. Anschliessend sind wir wieder in das Verwaltungsgebäude der BASF zurückgekehrt, wo Herr Dr. Helwert und ich uns von Herrn Haeni, Herrn Biehebourg und Frl. Reither trennten. Im Verlauf des Abends teilte mir der Bürovorstand von Dr. Alt, Herr Hönig, mit, dass er einem erneuten Verhör unterzogen wurde und dabei erklärt habe, dass die Kiste auf seine Veranlassung aus dem fraglichen Zimmer an einen anderen Ort verbracht worden sei. Auf Grund dieser Aussage sei von der Kommission die französische Polizei zugezogen worden, die dann die Kiste ermittelt, ordnungsgemäss versiegelt und in das Polizeipräsidium verbracht habe.

Am späten Abend des 21.2. erklärte ich Herrn v. Halle, dass ich die zugesagten Massnahmen, nämlich die Einführung eines Bereitschaftsdienstes über das Wochenende, ordnungsgemäss erledigt und dass ich nicht die Absicht hätte, am Sonntag zu seiner Verfügung zu stehen. Bei dieser Gelegenheit teilte er mir mit, dass er Wert darauf lege, mich noch einmal zu verhören und dass er dies am Mittwoch, den 25.2. tun wolle, nachdem er sich vorher von Nürnberg wesentlich erweiterte Vollmachten geholt habe.

Vom 23.2.1948 ab hatte ich nur noch bei unbedeutenden Anfragen mit einzelnen Vertretern der amerikanischen Kommission zu tun.

Ludwigshafen a.Rh., 26.2.48

Dr. Bernhard Timm
(Dr. Bernhard Timm)

Obige Unterschrift des Herrn Dr. Bernhard Timm, vor mir, Rechtsanwalt F.W. Wagner, Ludwigshafen/Rh., geleistet, wird hiermit beglaubigt und von mir beszeugt.

Ludwigshafen a.Rh., 26.2.48

F.W. Wagner
Rechtsanwalt

Eidesstattliche Erklärung

Ich, der Unterzeichnete, Dr. Fritz Helwert, Ludwigshafen a.Rh., bin von der Bedeutung einer eidesstattlichen Erklärung unterrichtet, weisse insbesondere, dass ich die reine Wahrheit zu sagen habe, dass diese eidesstattliche Erklärung als Beweismaterial bei dem Amerikanischen Militärgericht für den Fall 6 im Justiz-Palast in Nürnberg verwandt wird, und erkläre an Eidesstatt, dass die nachstehenden Darlegungen der Wahrheit entsprechen.

Ich bin Chemiker in Diensten der Badischen Anilin- & Soda-Fabrik in Ludwigshafen a.Rh. und der Leiter der Personal- und Sozial-Abteilungen; gleichzeitig gehöre ich dem Direktionsausschuss des Werkes an.

Am Sonnabend, den 21. Februar 1948, gegen 15 Uhr 30 rief mich Herr Barthelmä von der Patentabteilung in meiner Wohnung an, ob ich ihm sagen könnte, wer von der Einkaufsabteilung Bereitschaftsdienst hätte, da die in Werk anwesende amerikanische Kommission mit ihm zur Einkaufsabteilung gehen möchte, und er ohne einen Angestellten der Einkaufsabteilung nicht in die Büros eindringen wollte. Ich sagte Herrn Barthelmä am Telefon, dass ich die Liste des Bereitschaftsdienstes in meinem Büro hätte und sofort ins Werk kommen würde.

Auf dem Wege dorthin, es dürfte wohl gegen 16 Uhr gewesen sein, hielt ein amerikanischer Wagen vor mir, dem Herr Dr. Timm (BASF) und kurz darauf Herr Richebourg (französische Administration der BASF) entstiegen. Herr Dr. Timm setzte mich davon in Kenntnis, dass aufgrund einer Aussage von Fräulein Reiter sich in der Wohnung des Herrn Dr. Alt eine Kiste mit IG-Akten befände, und Herr Haeni, ein Herr der amerikanischen Kommission, und Herr Richebourg diese Kiste holen wollten. Ich sagte sofort Herrn Dr. Timm und Herrn Richebourg, dass dies unmöglich sei. Da Herr Dr. Alt nicht da wäre, wäre das ein Eindringen in eine Privatwohnung, dies sei aber nur aufgrund einer richterlichen Verfügung möglich. Es wäre in diesem Fall besonders unangebracht, da Herr Dr. Alt zur Verteidigung in Nürnberg gehöre. Herr Richebourg rief dann Herrn Haeni aus dem Wagen, der kurzerhand die Sache dahin abtat, das würde alles nichts sagen, er würde alles übernehmen, und wir sollten nur mitgehen, damit wir Zeuge seien, dass er nichts anderes mitnehme.

Nur zögernd, da ich mir vollkommen klar darüber war, dass die Kommission im Begriffe stand, eine gesetzwidrige Handlung zu begehen, und nur auf Bitten des Herrn Dr. Timm begleitete ich schliesslich die Kommission zur Wohnung von Herrn Dr. Alt.

Fritz Helwert

Herr Dr. Alt wohnt im Junggesellenheim des Werkes. Als wir dort ankamen, wurde die Tür von einem Hausmädchen ohne weiteres geöffnet, da es bekannt war, dass Fräulein Reiter für Herrn Dr. Alt Privatsachen erledigte. Ohne Begleitung einer Angestellten des Junggesellenheimes gingen wir zum Zimmer des Herrn Dr. Alt, das unvergeschlossen war. Ich ging als Letzter und blieb unter der Tür des Zimmers stehen. Fräulein Reiter, die vorausging, stellte sofort fest, dass die fragliche Kiste nicht mehr vorhanden war. Nachdem die Kommission das Zimmer sorgfältig in Augenschein genommen hatte, konnte von der Kiste nichts erspürt werden. Herr Haeni liess dann die Hausangestellten rufen und verhörte diese über den Verbleib der Kiste. Er konnte jedoch nichts erfahren.

Auf Vorschlag des Herrn Haeni sind wir dann alle in seinem Wagen wieder in das Verwaltungsgebäude der BASF gefahren, wo ich und Herr Dr. Timm und von Herrn Haeni, Herrn Richebourg und Fräulein Reiter trennten.

Ich begab mich dann in die Portierloge, wo Herr Barthelmä auf mich wartete, dem ich dann die Namen der Bereitschaftsdiensttuenden Herren der Technischen Abteilung und der Einkaufsabteilung bekanntgab.

Ludwigshafen a.Rhein, 25. Februar 1948/D

Fritz Helwert

Obige Unterschrift des Herrn Dr. Fritz Helwert, vor mir, Rechtsanwalt Friedrich Wilhelm Wagner, geleistet, wird hiermit beglaubigt und bezeugt.

Ludwigshafen, 26. Februar 1948

F. W. Wagner

EIDESSTATTLICHE ERKLÄRUNG

Ich, Dr. Wolfgang A l t, wohnhaft in Ludwigshafen/Rhein, Bunsenstrasse 4, bin darauf aufmerksam gemacht worden, dass ich mich strafbar mache, wenn ich eine falsche eidesstattliche Erklärung abgebe. Ich erkläre an Eidesstatt, dass meine Aussage der Wahrheit entspricht und gemacht wurde, um als Beweismaterial dem Militärgerichtshof Nr. VI im Justizpalast Nürnberg, Deutschland, vorgelegt zu werden.

Seitdem ich fuer die Verteidigung in Nürnberg arbeitete, bin ich bestrebt gewesen, reines Verteidigungsmaterial, unter dem ich alles verstehe, was nicht Akten oder Dokumente der I.G. waren, getrennt zu halten von diesen Akten und Dokumenten. Zu diesem Zwecke habe ich dieses sogenannte reine Verteidigungsmaterial im allgemeinen in meiner Wohnung aufbewahrt, und zwar in einer nicht verschliessbaren Holzkiste, die unter meinem Tische stand. Es stellte sich bald heraus, dass sich diese Trennung im tatsächlichen Arbeitsbetrieb nicht streng durchfuehren liess. Es kam deshalb auch vor, dass sich das sogenannte reine Verteidigungsmaterial oder Teile dieses Materials in den Geschaeftsräumen des Werkes Ludwigshafen befand. Ich rechnete selbstverstaendlich damit, dass die Prosecution auch in die Akten des Werkes Ludwigshafen Einblick nehmen wuerde. *N.A.* Besonders stark rechnete ich damit, als Dokumentenmaterial der I.G. in den Dokumenten-Buechern Ambros vorgelegt bzw. zur Uebersetzung und Vervielfaeltigung in Nürnberg eingereicht wurde. Aus den Dokumenten bzw. aus den beigelegten Versicherungen ueber den Ort, an dem sich das Dokument befand, konnte die Prosecution vermuten, dass evtl. z.B. bei Briefen und Schriftwechsel die zeitlich vorhergehenden oder nachfolgenden Schriftstuecke sich ebenfalls in Ludwigshafen befinden wuerden.

Deshalb gab ich, wie schon fruher, meinen Angestellten die Anweisung, dass, falls die Prosecution in Ludwigshafen nach solchen Dokumenten forschen wuerde, auf alle Faelle das reine Verteidigungsmaterial

Dr. Wolfgang Alt

dem Zugriff oder der Kenntnisnahme der Prosecution entzogen werden
musste. Ich habe niemals die Anweisung gegeben, I.G.-Dokumente zu
verstecken. Ich habe auch keine Anweisung gegeben, "alle Dokumente,
die fuer die Anklage oder die Verteidigung wichtig sein könnten,
zur Seite zu schaffen".

Ernberg, den 28. Februar 1948.

Wolfgang Alt

Die vorstehende vor mir anerkannte eigenhändige Unterschrift des
Herrn Dr. Wolfgang A l t, wohnhaft in Ludwigshafen/Rhein, Bunsen-
strasse 4, ist vor mir, Rechtsanwalt Horst P e l c k m a n n,
hier selbst geleistet, was hiermit beglaubigt und von mir bezeugt
wird.

Ernberg, den 28. Februar 1948.

Pelckmann

dem Zugriff oder der Kenntnisnahme der Prosecution entzogen werden
musste. Ich habe niemals die Anweisung gegeben, I.G.-Dokumente zu
verstecken. Ich habe auch keine Anweisung gegeben, "alle Dokumente,
die fuer die Anklage oder die Verteidigung wichtig sein könnten,
zur Seite zu schaffen".

Muenberg, den 28. Februar 1948.

Dr. Wolfgang Alt

Die vorstehende vor mir anerkannte eigenhändige Unterschrift des
Herrn Dr. Wolfgang A l t, wohnhaft in Ludwigshafen/Rhein, Bunsen-
strasse 4, ist vor mir, Rechtsanwalt Horst P e l c k m a n n,
hier selbst geleistet, was hiermit beglaubigt und von mir bezeugt
wird.

Muenberg, den 28. Februar 1948.

Pelckmann

330
66

Eidesstattliche Erklärung

Ich, Gertrud Reithner, wohnhaft in Ludwigshafen am Rhein, Anilinstraße 46, bin zunächst aufmerksam gemacht worden, daß ich mich strafbar mache, wenn ich eine falsche eidesstattliche Erklärung abgebe. Ich erkläre an Eidesstatt, daß meine Aussage der Wahrheit entspricht und gemacht wurde, um als Beweismaterial dem Militärgerichtshof VI im Justizpalast in Nürnberg, Deutschland, vorgelegt zu werden.

Ich bin seit 15. Dezember 1939 bei der I.G. Farbenindustrie Aktiengesellschaft Werk Ludwigshafen am Rhein beschäftigt. Seit Juli 1945 bin ich im Büro Dr. ALT tätig.

Am Freitag, den 20. Februar 1948 nachmittags beauftragte mich Herr Anton RÖWIG, die bei uns im Büro befindlichen Unterlagen der Verteidigung ausser Sicht zu tun. Ich habe diesen Auftrag auch ausgeführt und die Akten in einem Kleiderschrank ein Stockwerk höher verbracht.

Am Samstag, den 21. Februar 1948 mittags gegen 13 Uhr wurde ich von der Werkspolizei verständigt, sofort in den Bau Ia 1 zu kommen, welcher Aufforderung ich auch Folge leistete. Im Bau 1 angekommen, wurde ich von einem Herrn vernommen, der sich erst während der Vernehmung als Mitglied der Anklagebehörde bezeichnete. Vereidigt wurde ich sofort. Während der Vernehmung mußte ich die Ausserachtbringung der Akten zugeben und diese wieder zurückholen.

Ich wurde auch nach einer Kiste gefragt, die im Zimmer des Herrn Dr. ALT gewesen war. Eine Nachschau durch einen Herrn der Anklagebehörde, einen Herrn der französischen Administration in Begleitung von mir und in Begleitung des Herrn Dr. TIMM, dem sich auf Wunsch der anderen Herren Dr. HELWERT unterwegs anschloss, war ergebnislos. Die Herren Dr. TIMM und Dr. HELWERT liessen dem französischen und amerikanischen Herrn gegenüber keinen Zweifel, daß sie die Rechtmäßigkeit der Aufsuchung der Wohnung von Dr. ALT als nicht gegeben ansehen könnten. Sie weigerten sich anfänglich mitzugehen.

Zurückgekehrt nach dem Bau Ia 1 wurde ich nochmals vernommen. Herr VON HALLE, dessen Name ich inzwischen erfahren hatte, drohte mir mit sofortiger Verhaftung und Durchsuchung meiner Wohnung, wenn die Kiste nicht umgehend beikäme.

Es wurde daraufhin die Surêté verständigt und das Junggesellenheim, in dem sich das Zimmer von Dr. ALT befindet, nochmals aufgesucht. Die Hausverwalterin im Junggesellenheim wurde vernommen, wobei zwei Beamte der Surêté anwesend waren. Die Kiste wurde darauf vorgefunden, von der Surêté versiegelt und mitgenommen.

Ludwigshafen am Rhein, den 26. Februar 1948

Gertrud Reithner

330
66a

Einverständniserklärung

Unseitige Unterschrift von Fräulein Gertrud Reiche, wohnhaft in Ludwigshafen am Rhein, Adolfsstrasse 46, vor mir, Rechtsanwalt Friedrich Wilhelm Wagner, wohnhaft in Ludwigshafen am Rhein, Schleichstrasse 32, geleistet, wird hiermit beglaubigt und von mir bezeugt.

Ludwigshafen am Rhein, den 26. Februar 1948

Ich bin seit 15. Dezember 1939 bei der I.G. Farbenindustrie Aktiengesellschaft in Ludwigshafen am Rhein beschäftigt. Seit Juli 1939 bin ich als ...

F. W. Wagner

Am Freitag, den 20. Februar 1948, wurde ich von Herrn ...

Am Samstag, den 21. Februar 1948, wurde ich von Herrn ...

Ich wurde auch nach einer Klage ...

Derweilen wurde nach dem ...

Es wurde daraufhin die ...

Ludwigshafen am Rhein, den 26. Februar 1948

Friedrich Wilhelm Wagner

Eidesstattliche Erklärung

Ich, Anton H. S. d. 1. g., wohnhaft in Ludwigshafen am Rhein, Siemensstrasse 11, bin danach aufmerksam gemacht worden, daß ich mich strafbar mache, wenn ich eine falsche eidesstattliche Erklärung abgebe. Ich erkläre an Eidesstatt, daß meine Aussage der Wahrheit entspricht und gemacht wurde, um als Beweismaterial dem Militärgerichtshof VI in Justizpalast in Nürnberg, Deutschland, vorgelegt zu werden.

Ich bin seit 5. Februar 1927 bei der I.G. Farbenindustrie Aktiengesellschaft Werk Ludwigshafen am Rhein beschäftigt und seit September 1943 im Büro Dr. ALT tätig.

Am Freitag, den 20. Februar 1948 sah ich, Anton HÜHNIG, nach der Mittagspause vor dem Bau 1 ein amerikanisches Auto stehen. Die Bezeichnung "Barn" vor dem Nummernschild gab mir die Vermutung ein, daß es sich um ein Auto der Nürnberger Gerichtsbehörden handeln könne. Da ich nicht haben wollte und mir von Dr. ALT noch gesagt worden war, daß Material der Verteidigung der Anklagebehörde nicht zugänglich gemacht werden sollte, gab ich meiner Mitarbeiterin, Frä. REITHER, den Auftrag andere Akten außer Sicht zu tun.

Am Samstag morgen gegen 10 Uhr wurde ich telefonisch verständigt, sofort in den Bau 1 zu kommen. Dieser Aufforderung leistete ich Folge. Als ich in Bau 1 ankam, wurde mir in Anwesenheit französischer Herren eröffnet, daß ich sämtliche Schränke und Fülle in meinem Büro aufzuschließen habe. Sie wurden von amerikanischen Herren durchsucht. Gefunden wurde dabei wenig. Ich erinnere mich an eine blaue Mappe, die Korrespondenz des Herrn FAUST mit verschiedenen Firmen und Durchschläge seiner eidesstattlichen Erklärungen enthielt, an Notizen und Stellungnahmen zu Anklagepunkt III, an einen Lageplan von Auschwitz mit Luftschutzeinzelzeichnungen, sowie an andere Mappe Gendorf mit der laufenden Post. Daraufhin wurde ich von zwei amerikanischen Herren vernommen, die mir nicht bekannt waren und deren Namen ich erst später erfuhr. Es waren die Herren VON HALLE und MINSKOFF. Das Verhör war ziemlich scharf und Herr VON HALLE sagte mir nach einigen Fragen: "Sie sagen die Unwahrheit, ich muß Sie verurteilen. Stehen Sie auf und sagen Sie mir nach." Auf eine solche Überraschung war ich nicht gefaßt, sodaß ich die Eidesformel nachsprach. Im Verlauf des Verhörs gestatte ich zugeben, daß ich Unterlagen zur Seite geschafft hatte und habe sie daraufhin den Herren zugänglich machen müssen. Es handelte sich dabei um Post-Ein- und -Ausgang, verschiedene Negative, Skizzen und ähnliches. Die Vernehmung dauerte 1 1/2 Stunden und es wurde mir im Verlauf des Verhörs verschiedentlich die Verhaftung angekündigt. Als Herr MINSKOFF bei den Unterlagen Negative von Kreditträgen von Auschwitz vorfand, hat er mir diese sehr deutlich vorgehalten und gefragt, ob das keine Dokumente seien. Im Verlauf des Nachmittags gestatte ich bei den Unterredungen noch zugeben, daß an einer zweiten und dritten Stelle noch Unterlagen seien. Die Unterlagen der zweiten Stelle holte Frä. REITHER, die inzwischen auch gerufen, eingetroffen, verurteilt und vernommen worden war. Bei der zweiten Stelle befanden sich u.a. eine Mappe mit Durchschlägen von eidesstattlichen Erklärungen von Zeugen. Trotzdem Herr VON HALLE mir wiederholt erklärt hatte, die Anklagebehörde würde sich für reine Verteidigungsakten nicht interessieren, ist diese Mappe etwasmäßig wie die Mappe mit Briefen des Herrn FAUST oder unsere Post-Ein- und Ausgangsmappen zurückgegeben worden. Bei der dritten Stelle handelte es sich um die von Nürnberg

erhaltenen Posteingänge von Dr. AMEROS und unsere Antworten hierauf. Da ich nicht sicher war, ob sich darunter Dokumente im Sinne der Anklage befanden, hatte ich Herrn VON HALLS von diesen Sachen Kenntnis gegeben. Diese beiden Mappen waren vor einiger Zeit in eine Kiste in die Wohnung des Herrn Dr. ALT gelegt und die Kiste ist auf meine Veranlassung hin aus dem Zimmer von Herrn Dr. ALT entfernt worden. Die Kiste war jedoch, wie ich später hörte, nicht aufzufinden.

Herr RICHEBOURG verständigte daraufhin die Surêté, die nach kurzer Zeit mit zwei Beamten erschien. Begleitet von einem Herrn der Anklagevertretung, Herrn RICHEBOURG, Frl. REITHNER und mir wurde zum zweiten Mal ~~in der Wohnung des Herrn Dr. ALT~~ aufgesucht. Ich musste im Auto verbleiben und das Ergebnis der Aktion abwarten, während die anderen in ~~die Wohnung des Herrn Dr. ALT~~ gingen. Nach ungefähr 1/2 Stunde kamen sie mit der Kiste zurück. Die war versiegelt worden und wurde von den Herren der Surêté mitgenommen.

Für diesen Tag war die Aktion erledigt. Ich wurde für den nächsten Tag, das war Sonntag, der 22. Februar 1948, auf 10 Uhr vormittags wieder bestellt.

10.20 Uhr kam Herr VON HALLS in sein Büro und bestellte mich auf 1/2 11 Uhr auf sein Zimmer. Er wollte sofort mit der Vernehmung fortfahren. Ich stande noch unter Eid von der vortägigen Vernehmung. Ich verlangte daraufhin einen Rechtsbeistand. Dies wurde mir verweigert. Herr VON HALLS sagte mir: "Wollen Sie gleich aussagen, oder wollen Sie zuerst verhaftet sein?" Kurzum ich bekam keinen Rechtsbeistand; Herr RICHEBOURG war bei dieser Vernehmung zugegen. Das Verhör dauerte wieder 1/2 Stunden. Es handelte hauptsächlich davon, ob die Verteidigung irgendwelche Verbindungen zur G.I.C. oder irgendwelchen Stellen der Anklagebehörde habe. Da mir darüber nichts bekannt ist, konnte ich diese Fragen ohne weiteres verneinen. Es wurde ferner gefragt, welche Personen für die Verteidigung in Ludwigshafen und in Bamberg arbeiten würden. Im Verlauf des Nachmittags wurde von Herrn VON HALLS und mir eine eidesstattliche Erklärung über Teile meiner Aussagen ausgearbeitet, die ich dann auch unterschrieb.

Ludwigshafen am Rhein, den 26. Februar 1948

Anton Hörig

Obige Unterschrift von Herrn Anton Hörig, wohnhaft in Ludwigshafen am Rhein, Siemensstrasse 11, vor mir, Rechtsanwalt Ludwig Wilhelm Wagner, wohnhaft in Ludwigshafen am Rhein, Schiesshausstrasse 32, geleistet, wird hiermit beglaubigt und von mir bezeugt.

Ludwigshafen am Rhein, den 26. Februar 1948

F. W. Wagner
Rechtsanwalt

MILITARY TRIBUNALS
Nurnberg, Germany

UNITED STATES OF AMERICA
against
ERBACH and Others (Case VI)

APPLICATION FOR THE PRODUCTION OF DOCUMENTS

FILED 0930
26 Feb. 1948
Secretary General
of Military Tribunal
Nurnberg, Germany

1. It is requested that the Tribunal direct Counsel for the Defense, individually and severally, and any other persons acting for the Defense with the approval of the Tribunal:

(a) To produce all Erbach files or documents which have been removed from any Erbach files or archives under the jurisdiction of any of the Allied authorities at the request of or upon the initiative of the Defense or any person acting on behalf of the Defense;

(b) To make an accounting in writing to the Tribunal of any such files or documents which cannot be produced because they have been destroyed.

2. The basis of the present action is predicated upon the fact that persons, acting for and on behalf of certain Defense Counsel approved by the Tribunal, have engaged upon a systematic large-scale withdrawal of material evidence from places where both members of the Prosecution and the Defense normally would have access to such evidence, and under circumstances which have deprived the Prosecution and the Tribunal of any knowledge or information concerning such evidence. This situation arises in part out of the fact that certain persons concurrently hold positions both in Erbach plants under the jurisdiction of the Allies and in the Defense at Nurnberg.

3. The following specific facts are offered for the consideration of the Tribunal. On Wednesday afternoon, 18 February 1948, the following members of the Prosecution staff visited the Grieshain Document Center: Mr. E. E. Minskoff, Assistant to Deputy Chief of Counsel; Mr. Benvenuto von Halls, Chief Interrogator; Mr. Alfred Elben and Mr. Paul Hasni, Research Analysts. Investigation of the document records at Grieshain indicated that almost all documents relating to Auschwitz,

including personal files of Auschwitz persons ~~files~~, as well as general Auschwitz files, had been released by the American authorities to the French Control Office in charge of I. G. Farben, Ludwigshafen plant. In an interview with Major Hanson, the American officer in charge of the Griesheim Document Center, it was learned that the large shipments of documents (truckloads) from Griesheim to the Ludwigshafen plant were made at the request of Ludwigshafen on the understanding that these files consisted of such things as patents, financial matters necessary to the operation and production of I. G. Farben, Ludwigshafen. Major Hanson did not know that materials concerning only Auschwitz were included in the large volume of documents requested.

4. The Prosecution team then asked that a list be prepared of all the documents shipped to the Ludwigshafen plant at the latter's request. The team then proceeded to Ludwigshafen on 29 February 1948. At the Ludwigshafen plant the French authorities were contacted and clearance from the French Command at Baden-Baden was obtained to make a further investigation at Ludwigshafen itself. As stated in the attached statement of Col. Weiss and M. Rohard, French officials in the French administration of the Ludwigshafen plant, the further investigation at Ludwigshafen was conducted in the presence of the French authorities.

5. In the further investigation which ensued at Ludwigshafen, the following information was obtained:

(a) The French lists of documents received from Griesheim conformed with the American lists of documents sent from Griesheim to Ludwigshafen.

(b) The French authorities were of the opinion that these files were in their possession at Ludwigshafen.

(c) Actual physical search of the files revealed that in many cases involving Auschwitz matters, the envelopes had been emptied of their contents and the documents themselves had been removed.

(d) The German Farben officials in charge of the various departments admitted that many of these documents had been turned over to Dr. Alt without receipt and without any listing of the individual documents removed.

(e) They admitted further that large quantities of these documents which they could no longer account for were destroyed for the reasons:

- (1) They had no space for these documents;
- (2) They were of no use to the Ludwigshafen plant.

(f) With respect to documents already located in Ludwigshafen (in contra-distinction to those obtained from Griesheim), it was admitted that these documents were surrendered from Ludwigshafen files to Dr. Alt for purposes of the Defense without receipt and without retaining copies of the documents or lists of all the documents transferred.

(g) These documents included, among others, the weekly reports on Laschitz.

(h) It was revealed that a large staff, including secretaries and legal assistants employed by and being paid by the French Control in Ludwigshafen, were devoting a large part, and in some cases all, of their time working for the Defense, both in Ludwigshafen and Kurnberg.

(i) To conceal these activities from the Allied authorities, Dr. Alt provided a code list of signs to be used in transferring letters, documents, etc.

(j) Dr. Alt gave specific instructions that in the event American authorities should appear at Ludwigshafen, all documents of interest to the Prosecution and Defense were to be secreted and hidden from the view of the Americans.

(k) Upon the arrival of the Prosecution team these instructions were carried out, documents were hidden in closets and a box was sent to the home of Dr. Alt in Ludwigshafen for safekeeping.

(l) Upon the discovery by the Prosecution ~~team~~ of the attempted concealment, the French authorities notified the Security Police to search for the box of documents. After interrogations by the Security Police, the box was ultimately discovered in the home of Dr. Alt. The box was thereupon sealed and placed in the custody of the French Security Police.

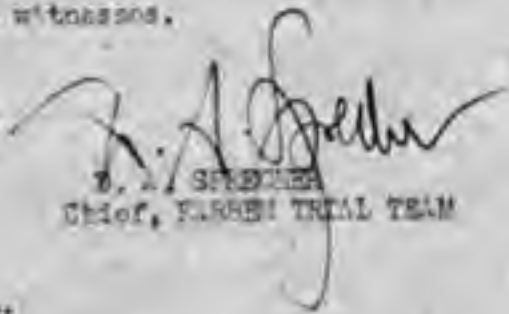
6. On Wednesday, 29 February 1948, the Prosecution, in accordance with the suggestion of the President of the Tribunal in a discussion in Chambers with Dr. Hoffmann, offered to sit with representatives of the Defense to make appropriate arrangements for the disclosure of Perben

documents involved. Prosecution representatives have since been informed that the documents involved could not be obtained except by a formal motion to the Tribunal.

7. Attached hereto and made a part hereof are the affidavits of Anton Hoenig, Gertrude Reither and Adam Klein concerning these matters; and the official French report of the visit of the Prosecution team at Ludwigshafen.

8. Accordingly the Prosecution respectfully applies for the relief set forth in Paragraph 1 of this application. With respect to the weekly reports on Auschwitz taken from the files of Dr. Sante in Ludwigshafen, it is requested that these reports be made available within twenty-four hours, since they are needed in connection with the preparation of the cross-examination of the Defendant Latrobe and his witnesses.

By:


T. A. SPIER
Chief, PROSECUTION TEAM

For:

TELFORD E. YLOR
Brig. Gen. USA
Chief of Counsel

Munich: 26 February 1948

AFFIDAVIT

I, Anton Hoents, born on 25 September 1898 at Ludwigshafen, living in Ludwigshafen, 11 Siemensstrasse, after having been informed that I am liable to punishment for making false statements, herewith state under oath of my own free will and without duress the following:

1. My position in Ludwigshafen is that of a secretary to Dr. ALT. In this position, I am working partially for the firm 'Badische Anilin- und Sodafabrik' (BASF) (I.G. Farben) which is controlled by the French authorities, and partially for the defense of Dr. SCHUB in the I.G. Farben Trial, Nuremberg.

2. Since approximately May-June 1947 a number of employees of BASF is working for Ludwigshafen as well as for the defense in Nuremberg. In the office in which I am working, Dr. ALT has lately been working almost exclusively for the I.G. Trial in Nuremberg. He has a double-position: a) as an assistant defense-lawyer (Assistent-Verteidiger), b) technical advisor in the BASF. I myself am working an average of 33% to 50% for the I.G. defense in Nuremberg and the rest of my time for BASF. At the beginning, i.e., middle 1947, I have worked much more for BASF, during the last 2 months I am working almost exclusively for the defense. My assistant, Miss Gertrud Reither is doing approximately the same amount of work for the defense and for BASF as I myself.

(Page 1 of original)

I know that in addition to the three people mentioned above Fritz G. WAGNER, Josef WOLLM, who are employees of BASF are also doing a considerable amount of work for the defense in Nuremberg, mostly for Dr. SCHUB. According to my opinion, Mr. BUCH is working for Dr. WURSTLER's defense in Nuremberg. The following people for the Ludwigshafen plant are working as secretaries in Nuremberg: Miss Jutta PLUMMER, Office of Dr. ALT, Miss Josephine GLEBL, Personnel Department, Miss WOLLM, Personnel Department, Mrs. DOLBECK, Legal Department. The greater part of the above-mentioned people is working full-time for the defense in Nuremberg (Miss GLEBL and Miss WOLLM have been in Nuremberg for only a short time). I myself have twice gone to Nuremberg. I did not inform the Personnel Department and the French Control Authorities of BASF that I was away from Ludwigshafen and stayed in Nuremberg.

3. In the middle of 1947 Dr. ALT gave me a list which contained the following code-names:

Gaefflin, (convict)	worker
Savelberg	Harald
Faust	Paul
Kiefeld	Foerster
Braun	Wilm
Schnelder	Kath
(worker)	
Chauffeur of	Theo
Querrfeld, Louis	

- I -

Bahr v. Bakrenfels	von Fuchs
Duerrfeld	Heribert
Ambros	Bargemann
Alt	Josef
Reintzeler	Heinz
Santo	Laar
Saldebroeck	Kugel
Pohl SS	Haupt
Boess	Ross
in (Concentration Camp)	Hein
Lager IV (Camp IV)	Virneim
Sttwer	Mals
Toni	Subert
Palm	Kuep
Bilfinger	Foder

(Page 3 of original)

Klenck	Alex
Naumann	Honinger
Col. Weiss	Hendrick
Col. Fribourg	Muehlheim
Wurster	Stutt

According to my information, the list was made up by Dr. ALT and served the purpose of passing reports and letters through the French and the American Zones without giving the censorship of the two countries France and America the possibility of finding out what was being written about. I wish to add, however, that it served mostly in order not to help the prosecution in Nuremberg.

4. The office of Dr. ALT in Ludwigshafen was used in order to carry through the general defense of Dr. AMBROS. Witnesses were called to I.G. Ludwigshafen, were interrogated there and affidavits were made there. Letters were written to all four zones and to France, to America and to Czechoslovakia in order to procure defense material for Dr. AMBROS. Orders from the defense in Nuremberg were given to Dr. ALT who partially handed them on to the various departments in Ludwigshafen. The various departments in Ludwigshafen screened their documents or wrote theses that could be of help to the defense in Nuremberg. Documents were copied in our office and sent to Nuremberg. Parts of the document-books were written in Ludwigshafen for the defense in Nuremberg.

By order of Dr. ALT, a thesis about Gendorf and one about Dyhernfurth which had been written in AMBROS' personal handwriting

(Page 4 of original)

was forwarded from Nuremberg, was copied in Ludwigshafen and was returned to Nuremberg. No copy remained in the Ludwigshafen plant. (It is possible that a copy of these theses is in the box which is in the apartment of Dr. ALT). I destroyed the original of these theses by order of Dr. ALT.

I wrote lists of the documents which were sent to the defense in Nuremberg. Later, these lists have not been available in the Ludwigsafen plant but were stored in a box in Dr. ALT's house.

Original documents of which no copies were made were also sent to Nuremberg, so that no copy is available in Ludwigsafen. Among other things, the documents concerned are weekly reports from Auschwitz which are at present in Nuremberg.

5. Quite some time ago Dr. ALT gave me the order to put away in case of an inspection by the Prosecution in Nuremberg all documents which could be of importance to the prosecution or the defense. When, on 20 February, I saw a car which obviously belonged to the Nuremberg trials standing in front of the Ludwigsafen plant, I ordered my assistant Miss RALPH to hide all documents which seemed to me of importance. Miss RALPH took the documents one floor higher and wanted to put them into the wardrobe of an employee, a Mr. KALL. Mr. KALL did not want to have the documents

(Page 5 of original)

in his wardrobe, and thus they were hidden in a wall-cupboard. I then called up the apartment of Mr. ALT and gave orders to hide the box which had been stored in Dr. ALT's apartment and which, in my opinion, contained among other things documents from Ludwigsafen, affidavits by voluntary witnesses for the defense and the list of the documents sent from Ludwigsafen to Nuremberg. After having been interrogated for some time by Mr. KILSKOFF and Mr. von HALL, the representatives of the Nuremberg Prosecution, I announced all of the places of hiding of the documents and all of these documents are today in the hands of the French Administration.

6. Shortly before the end of the war, by order of Dr. ALBROS and Dr. ALT, I burned in the Kohlhof, near Heidelberg, documents which had been taken away from Ludwigsafen at the request of ALBROS and ALT. I myself have never destroyed or mutilated any documents after the end of the war with the exception of the notes of Dr. ALBROS which are mentioned in this affidavit.

7. According to my knowledge, the French I.G. Control Office was in no way informed of the work which the German employees did for the defense in I.G. Ludwigsafen. The French I.G. Control Office also did not know that documents were sent to Nuremberg without their having exact information or copies of these documents in their possession. The French I.G. Control Office also did not know that, initially, the intention existed of

(Page 6 of original)

keeping the documents away from the Prosecution. According to my knowledge it was hardly possible for the French Authorities to discover the connection with the defense.

APPENDIX I (Cont'd)

I have carefully read every one of the six pages of this affidavit and have signed it personally. I have made the necessary corrections in my own handwriting and have countersigned them with my initials and I herewith state under oath that in this affidavit I have said the pure truth according to the best of my knowledge and conscience.

(signature) : Anton HORNIG

Anton HORNIG

Sword to and signed before me this 22nd day of February 1948 at Ludwigshafen by Anton HORNIG, known to me to be the person making the above affidavit.

(signature) : Benvenuto von HALL

Benvenuto von HALL
U.S. Civilian D432532
Office of Chief of
Counsel for War Crimes

CERTIFICATE OF TRANSLATION

I, Joan J. BOLL, AGO No. A-444412, hereby certify that I am thoroughly conversant with the English and German languages and that the above is a true and correct translation of the original affidavit of ANTON HORNIG, dated 22 February 1948.

Joan J. BOLL
U.S. Civilian
AGO No. A-444412

APPENDIX II

Statement

Yesterday, Mr. SOXIS requested me to hide certain documents so that the representatives of the Prosecution would be unable to screen them.

(signature) : G.R. (Gertrud Reicher)

Ludwigshafen, 21 February 1948.

CERTIFICATE OF TRANSLATION

I, John J. BOLL, DO No. 1-444412, hereby certify that I am thoroughly conversant with the English and German languages and that the above is a true and correct translation of the statement of Gertrud REICHER, dated 21 February 1948.

John J. BOLL
U.S. Civilian
DO No. 1-444412

Appendix III

AFFIDAVIT

I, Adam KLEIN, born 5 November 1892 in Kaiserslautern, residing at Ludwigshafen, Leneckestrasse 26, after having been informed that I am liable to punishment by making false statements, hereby state under oath voluntarily and without duress the following:

1. I have been employed in the secretariate of Dr. KEROB as his secretary from approximately December 1942 until the present time.

2. Various records of Dr. KEROB which I kept I have turned over to Dr. ALT, who is working for IG Ludwigshafen as well as for the Defense. It is customary in the Ludwigshafen plant to ask for receipts for records which are given out. This has not been done in the case of Dr. ALT and the original records were given out without the consent of the French Control Organization (RASF) Ludwigshafen. I have turned over the records without receipt since I always have closely cooperated with Dr. ALT and considered Dr. ALT as part of the office. I know that various documents were sent to the Defense in Nuremberg but I do not know whether they were the above mentioned documents.

The documents which I turned over have not been returned to me. I do not have an exact survey of the number and the particular kind of records.

3. I know that the weekly reports from Auschwitz were requested by the office of SAFTO and were sent to Nuremberg through the office of Dr. ALT. As far as I know these reports have not been returned.

(page 2 of original)

I have carefully read everyone of the (2) pages of this affidavit and countersigned it with my own signature. I have made the necessary corrections in my own handwriting and countersigned them with my initials. I hereby declare under oath, that in this statement I have said the pure truth according to the best of my knowledge and conscience.

(signature) Adam KLEIN
Adam KLEIN

Sworn to and signed before me this 21th day of February 1948 at Nuremberg by Adam KLEIN, known to me to be the person making the above affidavit.

(signature) Benvenuto von HALLER
Benvenuto von HALLER
U.S. Civilian
D432532
Office of chief of
Council for War Crimes

CERTIFICATE OF TRANSLATION

I, John J. BOLL, AGO No. 4-444412, hereby certify that I am thoroughly conversant with the English and German languages and that the above is a true and correct translation of the original affidavit of Adam KLEIN, dated 21 February 1948

John J. BOLL
U.S. Civilian
AGO No. 4-444412

MILITARY GOVERNMENT OF THE FRENCH
ZONE OF GERMANY
Administration of the Ludwigshafen-Opau
Factories of I.G. Farben
S.P. 50255 - S.P.M. 415
Telephone: Ludwigshafen 40 and following
540 and following

APPENDIX IV

Ludwigshafen on Rhine,
22 February 1948

REPORT OF THE VISIT PAID BY
THE REPRESENTATIVES OF THE
OFFICE OF CHIEF OF COUNSEL
FOR WAR CRIMES ON 20, 21
AND 22 FEBRUARY 1948 to
LUDWIGSHAFFEN BRIG

We, the undersigned,

HEISS Andre - technical director of Ludwigshafen, member of
the Sequestration Management of I. G. Farben,
French Zone,

BEHLER Jean - by delegation Administrative, Financial and
Commercial Director of the said Management,

received on the 20th, 21st and 22nd February 1948, representatives
of the Office of Chief of Counsel for War Crimes - Nurnberg, led by

Mr. MINSKOFF, Assistant to Deputy Chief of Counsel for War
Crimes.

These representatives requested that they be given access to
the official documents belonging to I. G. Farbenindustrie.

By virtue of directives issued by the Sequestration Adminis-
trator of I. G. Farben: J. P. FOUCHER of BADEN-BADEN, S.P.
50.443 - RPN 507 -

and of powers conferred to the Sequestration Administration
of I. G. Farben by Law No. 52 of 24 July 1945 in accordance with
which the Company I. G. Farbenindustrie A.G. is out under seques-
tration

We proceeded to open the safes and cupboards containing the
files of Mr. Otto JEDOS, defendant in the Nurnberg trial.

A certain number of interesting documents were withdrawn from
the said safes and cupboards and deposited in the safes of the
Sequestration Administration.

A statement of opening and of deposit was made. Of this, one
copy was given to Mr. MINSKOFF and the other remained in our hands.

We also received statements from Mr. KOENIG, of which the
originals are deposited in our safes.

These statements, made in each case voluntarily and entirely
without coercion and in the presence of a representative of the
Sequestration Administration,

-Appendix IV Continued

Page 2 of the Original

were made with the purpose of certifying that there were no official I. G. Farbenindustrie documents in existence outside the factory.

One of the statements led me, on the contrary, to conclude that there was, in fact a case of official documents deposited outside the factory premises at JUNGENSLEIM, Busenstrasse 1, Ludwigshafen a/Rhein.

We therefore appealed to the Security Section of the Military Government of Ludwigshafen, which was authorized to proceed to investigate this case.

The case having been discovered, the Security Section immediately had the case sealed and is keeping the case in its possession until the return of its owner (Dr. IIT) in whose presence it will be opened and confirmation will then be made of the official documents of I. G. Farbenindustrie.

By virtue of this, we herewith certify that whether in the factory of Ludwigshafen of I. G. Farben, in accordance with our authority pursuant to Law No. 52 of 24 July 1945; whether outside of the factory area, under the care of the competent French authorities for the Ludwigshafen territory, the various operations mentioned above were entirely regular in every respect.

Ludwigshafen, 22 February 1948.

Signed: .. JESS

Signed: J. WELAND

(Stamp:)

I. G. Farbenindustrie Control Office
Ludwigshafen
Administration French Zone of
Occupation G.F.

CERTIFICATE OF TRANSLATION

I, Yvonne ... Schwarz, Civilian, War Department, ETO 20108, hereby certify that I am thoroughly conversant with the French and English languages and that the above is a true and correct translation of Report of Visit Paid by the Representatives of JCRC on 20, 21, and 22 Feb. 1948 to Ludwigshafen on Rhine.

Yvonne ... Schwarz
Civilian, War Department
ETO No. 20108

(Date) 6 March 1948

331

0

U.S. vs. Krauch et al.

FILED 11 March

Secretary General
of Military Tribunal
Nürnberg, Germany

ENK

Notice of Witnesses

TO BE CALLED BY THE DEFENSE

Dr. Hans Fleischmann

Notice is hereby given that the Defendant Dr. Heinrich Gustaf

may call the witness named below to testify concerning the matters hereinafter stated.

Name	:	Prof. Gerlach
Nationality	:	German
Address	:	Bonn/On Rhine, Buschallee 6
Position	:	University Professor
Nature of Testimony	:	Witness to testify to facts

Will take witness stand on 10 March 1948

Replied:

Date: _____ Time: _____

Testified 11 Mar 48

Maurice De Vries
Assistant Secretary General
Tribunal IV

2 March 1948

March 24, 1948

Dr. Robert S. Abbott

Room 2000

Dr. Lang, Bureau

Bureau

I and A Day Bureau

Bureau Director of L.A. Bureau

Witness is to testify to actual facts

Testified 6 March 1948

James De Vries
 Assistant Secretary General
 Tribunal VI

332

①

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

KRAUCH and Others (Case VI)

ANSWER TO AN APPLICATION FOR SUMMONS OF WITNESS ON BEHALF OF THE
DEFENDANT MANN

TO: The Secretary General, Military Tribunals (Room 201)

1. Answer is made to the application for a summons of a witness, Dr. Walter Heardt, by Dr. Berndt, counsel for the defendant MANN, dated 11 March 1948.

2. The prosecution does not oppose this witness being called before the Tribunal or before the Commissioner. However, it might be pointed out that Dr. Berndt has applied for approximately eleven witnesses to appear before the Tribunal (Josef Schmits, Dr. Zahn, Dr. Josef Grobel, Dr. Paulmann, Werner Schmits, Dr. Albert Fischer, Hermann Schlosser, Ernst Bernau, Dr. Koloman Poka, Ulrich Kaufmann, Dr. Gerhard Peters). The Tribunal may want to take up with Dr. Berndt the taking of some of this testimony before the Commissioner or by interrogatory.

By:


D. A. SPIECKER
Chief, FARBER TRIAL TEAM

Nurnberg 15 March 1948
Date

For:

TELFORD TAYLOR
Brig. Gen. USA
Chief of Counsel

MILITARY TRIBUNALS

Wannberg, Germany

UNITED STATES OF AMERICA

Against

Krauch et al.

332 ②
FILED 15 Mar 48
SECRETARY GENERAL
for Military Tribunals
Defense Center

Defendant's Application for Subpoena for Witness

TO: The Secretary General, Military Tribunal at:

I, Dr. Berndt

attorney for Mann

(Name of Defendant)

, hereby request that follow-

ing person be subpoenaed by the Tribunal to give evidence in the defend-
ant's behalf;

Name of Person desired as Witness:

Dr. Walter Heerdts

Occupation and last known location:

Chemist, Muesdorf on Attersee, Austria

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Degesch

Those facts are relevant to the defense for the following reasons:

Case Degesch

11 March 1948

(Date)

by order: Lang

Signature of Defendant's Counsel

Decision of Tribunal

Approved

Presiding Judge.

17 March 1948

PROSECUTION AND
DEFENSE NOTIFIED - 1825

19 March 48

MILITÄRGERICHTSHOF VI
Munich, Deutschland

VEREINIGTE STAATEN VON AMERIKA

gegen

Krauch und andere

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Berndt Verteidiger fuer Mann

, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Dr. Walter Heerdt, Chemiker

Beruf und bekannter Wohnort:

Musendorf am Attersee Oesterreich

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person weiss ueber die folgenden Tatsachen Bescheid:

Degesch

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Degesch-Fall

11. Maerz 1948

(Datum)

i. d. Lang
Unterschrift des Verteidigers

Beschluss des Gerichtshofes

1525

Vorsitzender Richter

332
3
FILED 15 Mar 48 with
SECRETARY GENERAL
U. S. Military Tribunal
Defense Center

(Date) 6 March 1948

333

U.S. vs. Kross et al.

Notice of Witnesses

TO BE CALLED BY THE DEFENSE

Dr. Hans Fleischner

Notice is hereby given that the Defendant Dr. Heinrich Buestfleisch
may call the witness named below to testify con-
cerning the matters hereinafter stated.

Name	:	Dr. Karl B r a u s
Nationality	:	German
Address	:	Heilbronn on Neckar Friedhofstr. 60
Profession	:	Chemist
Nature of Testimony	:	Witness to testify to facts.

Will take witness stand on 10 March 1948.

Subscribed

Delivered this _____

Testified 11 Mar 48
Maurice de Vries
Assistant Secretary General
Tribunal N

(Date) Thursday 12 March 1948

U.S. vs. Frank et al.

FILED 15 Mar 48

EMK

Secretary General
of the Court
Nürnberg, Germany

Notice of Witnesses

TO BE CALLED BY THE DEFENSE

Notice is hereby given that the Defendant _____

~~Dr. Franz D. Schickel~~ may call the witness named below to testify concerning the matters hereinafter stated.

Name : Dr. Friedrich MUK,
Nationality : German
Address : Nürnberg, Court Prison
Position : Subsidiary
Nature of Testimony : Gifts in 1938

~~Interrogation~~ Thursday, 12 March 1948 personally
in the afternoon, following the
presentation of evidence for the
defendant Friedrich.

(s) Dr. MUK

Received:

Date _____ Time _____

Testified 12 Mar 48

James M. Vane
Assistant Secretary General
Tribunal VI

MILITARY TRIBUNALS

Burnberg, Germany

Case No. 6
UNITED STATES OF AMERICA

Against

Kranich et al.

FILED 16 MAR 48
SECRETARY GENERAL
for Military Tribunal
Defense Counsel

335

①

Defendant's Application for Subpoena for Witness

TO: The Secretary General, Military Tribunal:

I, Dr. Alfred Seidl attorney for _____

Dr. Walter Duerrfeld, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Bear von Baarenfels

Occupation and Last Known Location:

Former Austrian Vice Chancellor - Saalfelden in Austria,

Land Salzburg, Parathaus,
Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Working conditions in the Auschwitz plant of the
I.G. -Farben, Ltd.

These facts are relevant to the defense for the following reasons:
To refute the allegations of the Prosecution witnesses.

No objection by Prosecution but Tribunal
may wish to check transport problem
(Austria)

12 March 1948
(Date)

(s) Dr. Seidl

Signature of Defendant's Counsel

PROSECUTION AND
DEFENSE NOTIFIED

Decision of Tribunal

Presiding Judge.

Case 6 18 Mch 1948
1528

MILITÄRGERICHTSHOF
Nürnberg, Deutschland
VI Fall Nr. 6
VEREINIGTE STAATEN VON AMERIKA

gegen
Krauch u.a.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Alfred Seidl Verteidiger fuer Dr. Walther Duerrfeld

_____, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen

des Angeklagten vorgeladen werde:

Baar von Baarenfels

Beruf und ~~aktuell~~ bekannter Wohnort:

ehemaliger oesterreichischer Vizekanzler, Sealfelden in Oesterreich,

Land Salzburg, Forsthaus

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

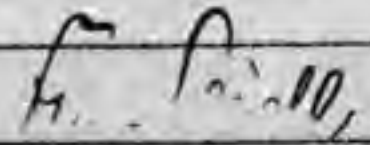
Die oben benannte Person wies ueber die folgenden Tatsachen Bescheid:
Arbeitsbedingungen im Werk Auschwitz der I.G. Farbenindustrie
A.G.

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Widerlegung der Behauptungen der Anklagezeugen.

12. März 1948

(Datum)


Unterschrift des Verteidigers
Dr. Alfred Seidl, Rechtsanwalt

Beschluss des Gerichtshofs

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Against

Korsch and others

FILED 14 Mar 48 Will
Secretary General
The Military Tribunal
Nuremberg, Germany Center
Case Number 4

Tribunal No. II 336

①

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Hugo Schramm, counsel ~~for~~ on the General Staff
~~for~~ the above-named defendants, having requested this Tribunal
that Dr. Emil Bachertling, whose address is
General A. Tamm, Lincoln, N., be entered and approved
on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Emil Bachertling be,
and he hereby is, approved as assistant attorney for said
Dr. Hugo Schramm to represent ~~the defendants~~ with respect to the
charges pending against ~~him~~ under the indictment filed herein.

Dated:

7 March 1948

Lewis J. Hall
Presiding Judge

PROSECUTION NOTIFIED

DEFENSE NOTIFIED

16 Mar 48 - 29

RESTRICTED

336
②

OFFICE OF MILITARY GOVERNMENT (US)
SECRETARIAT FOR MILITARY TRIBUNALS

NURNBERG, GERMANY
APO 686 A, U.S. ARMY

DEFENSE CENTER

16 March, 1948

SUBJECT: Emil Secherling

TO : Secretary General, Military Tribunals, Nurnberg

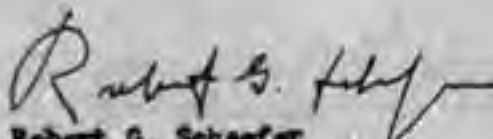
1. Application of Dr. Emil Secherling, prospective assistant defense counsel to General Staff for Case 6, has been screened with the following findings:

Party Member 1937-1945

Subject held no office in above organization and does not fall within A.A. category as defined in Ltr. OMGUS dated 9 July, 1947. He was placed in Category IV by his Spruchkammer.

2. Approval of this application is recommended.

Telephone: 61550


Robert G. Schaefer
Major, Field Artillery
Chief, Defense Center

1531
RESTRICTED

C-26

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Against

Krauch, and others

Nuremberg, Germany

Case No. VI

Military Trib. No. VI

APPLICATION FOR APPROVAL OF
ASSISTANT DEFENSE COUNSEL

Comes now Dr. Hugo Sakram and states to the Tribunal that he is attorney for Krauch and others one of the defendants in the matter of United States of America vs. Krauch and others, et al. That it is necessary that he have an assistant lawyer in this matter.

THEREFORE, Dr. Hugo Sakram makes application to the Tribunal for the approval of Dr. Emil Secherling as his assistant counsel to assist him with respect to the charges pending against Krauch and others in the above-named indictment.

Dated: February, 19, 1948

gen. Dr. Hugo Sakram
defense counsel, case VI

Der mir durch Gerichtsbeschluss zugewilligte Assistent WILHELM ist durch Übernahme einer anderweitigen Beschäftigung nicht mehr in der Lage, für mich tätig zu sein. Ich bitte deshalb um Bestellung von Herrn Dr. Emil SECHERLING anstelle von Herrn WILHELM.

Due to taking another position, the assistant Wilhelm approved for me by court order, is no longer in a position to work for me. Therefore, I ask for the approval of Dr. Emil Secherling in place of Mr. Wilhelm.

Emil Secherling
defense counsel, case VI

FILED 16 Mar 48 With
Secretary General

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
18 MARCH 1948

337

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

Case No. 8

ORDER

On considering the application of DR. WERNER
Schubert, counsel for the defendant Ernst Buehrig, for per-
mission for defense witness Julius Franz who was approved
for the defendant Buehrig by the Tribunal on 24 January 1948,
and who is under automatic arrest due to his formal membership
in the SD, be granted a 5 days' leave for the purpose of
examining documents in Griesheim,

IT IS ORDERED that said application be approved,
subject to decision of military authorities respecting
security.

Curtis G. Blake

CURTIS G. BLAKE,
Presiding.

Dated this 15th day of March 1948

PROSECUTION NOTIFIED

DEFENSE NOTIFIED

16 Mar 48/50

1533

FILED 15 March 1948
Secretary General
for Military Tribunals
Defense Center

Dr. Werner Schubert
Counsel for defendant
Dr. Ernst Buergin
(Case 6)

Murnberg 11 March 1948

337
②

To the

Prison Officer

via: 1) Major Schaefer

2) Mr. President Shake

Subject: Defense for Dr. Ernst Buergin, Case 6

By order of the Tribunal of 24 January 1948 I was granted Julius Franz, former Head of Bookkeeping in Bitterfeld, as a witness. I first intended to have Franz appear as a witness before the court, and then, waiving his personal appearance, I tried to secure an affidavit from the witness. The Affidavit, in the first place, was to refute the figures contained in the Prosecution Affidavit of witness Ernst August Struss. After a detailed discussion with the witness it appeared evident that, on the basis of the documents at his disposal here, he will not be able to give the requested affidavit. The witness could do this only with the help of documents which are in the Document Center Griesheim. I therefore ask Julius Franz who is under automatic arrest due to his former membership in the SS be granted a 5 days' leave, which will probably not be fully used and which is intended to give witness the opportunity to examine the documents in Griesheim. I or my assistant will accompany the witness and I pledge myself that the witness will return to Murnberg after his work is completed. I respectfully ask Major Schaefer and the Presiding Judge Mr. Shake to kindly recommend the request before delivering it to the Prison Officer.

(s) Dr. Schubert

Approved
subject to decision
of Military Authorities
respective Secretary
Ernst H. Shake
Presiding Judge
15 March 1948
1534

- Fall 6 -

②

An den

Herrn Prison Officer

ueber: 1) Herrn Major Schaefer
2) Herrn Praesidenten Shake

Betrifft: Verteidigung fuer Dr. Ernst Buerger, Fall 6

Durch Verfuegung des Gerichts vom 24.1.48 ist mir der fruehere Leiter der Buchhaltung in Bitterfeld, Julius Franz, als Zeuge genehmigt worden. Ich beabsichtigte zunaechst, Herrn Franz als Zeuge vor dem Court auftreten zu lassen und habe dann unter Versicht darauf versucht, eine eidesstattliche Versicherung des Zeugen aufzunehmen. Diese sollte sich in erster Linie mit der Widerlegung des Zahlenmaterials befassen, das in dem Anklage-Affidavit des Zeugen Ernst August Struss enthalten war. Es hat sich nun nach eingehender Eroerterung mit dem Zeugen Franz herausgestellt, dass der Zeuge auf Grund der ihm hier zur Verfuegung stehenden Unterlagen nicht in der Lage ist, das gewünschte Affidavit abzugeben. Der Zeuge koennte dies nur an Hand von Unterlagen, die sich im Dokumentenzentrum in Griesheim befinden.

Aus diesem Grunde bitte ich darum, dem Zeugen Julius Franz, der sich wegen einer formellen SS-Zugehoerigkeit unter automatischen Arrest befindet, einen Urlaub von 5 Tagen zu gewaehren, der voraussichtlich in diesem Umfange nicht in Anspruch genommen werden wird, und der dazu dienen soll, dem Zeugen den Einblick in Dokumente in Griesheim zu gewaehren.

Ich oder mein Assistent werden dem Zeugen begleiten und ich uebernehme die Garantie dafuer, dass der Zeuge nach Erledigung seiner Aufgabe wieder nach Nuernberg zurueckkehrt.

Ich bitte ergebenst Herrn Major Schaefer und Herrn Praesidenten Shake, den Antrag vor Abgabe an den Herrn Prison Officer befuerworten zu wollen.

W. Schubert

FILED 16 Mar 48 ²⁸ with
Secretary General

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
16 MARCH 1948

Transcripts
Dolores Center

338

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

Case No. 0

ORDER

The Tribunal on its own motion hereby designates the proper medical authorities of the 317th Station Hospital at Wiesbaden, Germany, to examine the Defendant CARL LAUTENBACH and to report the result of their examination to the Tribunal for its information.

The Tribunal especially desires a complete report as to the mental condition of said defendant, with particular reference as to whether his state of mind is such that he can make a defense and, if he so desires, testify as a witness in his own behalf. In that connection, the Tribunal wishes to be advised as to the findings of the medical authorities from a medical point of view, leaving it to the Tribunal to draw the ultimate inferences as to whether the defendant can make a defense and testify if he so desires.

In order to facilitate said examination, authority is hereby granted for the removal of said defendant from the prison at Nurnberg, to the 317th Station Hospital at Wiesbaden. The Secretary General is requested to take the necessary steps for the removal of the defendant to said hospital subject to such security measures as the proper military authorities may deem to be necessary and proper under the circumstances. Said defendant is to be returned to the Nurnberg prison upon the completion of said examination or the farther order of the Tribunal.

Curtis S. Shute
CURTIS S. SHUTE,
Presiding.

Dated this 16th day of March 1948.

PROSECUTION NOTIFIED
DEFENSE NOTIFIED
16 Mar 48 - 28
1536

339
①

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, WASHINGTON, DISTRICT OF COLUMBIA
AT A SESSION OF MILITARY TRIBUNAL VI
HELD 17 MARCH 1948, IN CHAMBER

THE UNITED STATES OF AMERICA

- vs. -

CHAR. KATZ, et al.,

Defendants.

FILED 17 March 1948 with
Secretary General
for Military Tribunals
Defense Center
Case No. 8

The Prison Physician having requested that the defendant Otto Andrew be transported to the City Hospital for one day in order to be given an Electrocardiograph.

IT IS ORDERED that said request be approved.

Kenneth E. Rosta
Presiding Judge

DEFENSE NOTIFIED
17 March 1948
PROSECUTION NOTIFIED

339
②

OFFICE OF CHIEF OF COUNSEL FOR WAR CRIMES
APO 696 A

Medical Dispensary.

16 March 1948.

SUBJECT: Physical condition of the Defendant Ambrose.

TO : The Military Tribunal.

It is requested that the above named defendant be transported
City Hospital for one day in order to be given an Electrocardiograph.

Charles W. Massey.

Charles W. Massey, 1/Lt.
Medical Corps.
Prison Physician.

Approved
17 Mch 1948
Arthur P. Sharkey, Judge
Presiding

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

Krauch a.o.



340

①

Defendant's Application for Orders for Witnesses

To: The Secretary General, Military Tribunal:

I, Dr. Hans Friebilla attorney for _____

Jachne

(Name of Defendant)

, hereby request that follow-

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Dr. Otto Hirschel

Occupation and last known location:

Chemist at Bad Soden / Taunus, Parkstrasse 48

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

treatment of the foreign workers in the dye-stuff plant Hoechst

Answer of the Prosecution: No objection.

D. A. SPERCHER
Chief, Trial Team I

These facts are relevant to the defense for the following reasons:

Count III of the indictment

March 18th, 1948

(Date)

Signature of Defendant's Counsel - Mr.

Decision of Tribunal

Presiding Judge.

RECEIVED
PROSECUTION AND
DEFENSE NOTIFIED
18 March 1948
1539

MILITARY TRIBUNALS

Furnberg, Germany

340
②

UNITED STATES OF AMERICA

Against

Krauch u.o.

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunal:

I, Dr. Hans Pribille attorney for _____

Jachne, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Dr. Otto Hirschel

Occupation and last known location:

Chemist at Bad Soden / Taunus, Parkstrasse 48

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

treatment of the foreign workers in the dye-stuff plant Hoechst

These facts are relevant to the defense for the following reasons:

Count III of the indictment

March 18 th, 1948

(Date)

(s) Eisenblaetter Ass.

Signature of Defendant's Counsel

Decision of Tribunal

Presiding Judge.

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

Krauch a.o.

FILED 18 March 1948
SECRETARY GENERAL
for Military Tribunals
Nurnberg

Defendant's Application for Defense for Witnesses

341

To: The Secretary General, Military Tribunal:

①

I, Dr. Hans Pribilla attorney for

Jaehne

(Name of Defendant)

, hereby request that follow-

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Hans Poeschl

Occupation and last known location:

formerly employee, Frankfurt/Main, Metzlerstrasse 27

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Knowledge of Jaehne of war purposes, his activity in the air raid
protection, employment of the "factory guard" (Werkschutz) and
treatment of the foreign workers in the dye stuff plant Hoechst

These facts are relevant to the defense for the following reasons:
count I and III of the indictment

Answer of the Prosecution: No objection.

J. G. Spracher *Relf*
D.A. Spracher
Chief, Trial Team I

March, 18th, 1948

PROSECUTION AND
DEFENSE NOTIFIED

19 March 1948

G. Neubauer
Signature of Defendant's Counsel

Decision of Tribunal

Approved

Kurt G. Blum
Presiding Judge.

19 March 1948

MILITARY TRIBUNALS

Wernberg, Germany

341
②

UNITED STATES OF AMERICA

Against

Krauch a.o.

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunal:

I, Dr. Hans Pribilla attorney for

Jachne, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Hans Poehn

Occupation and last known location:

formerly employee, Frankfurt / Main, Metalestr. 27

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Knowledge of Jachne of war purposes, his activity in the air raid
protection, employment of the "factory guard" (Werkschutz) and
treatment of the foreign workers in the dye stuff plant Hoechst

These facts are relevant to the defense for the following reasons:
count I and III of the indictment

March, 18th, 1948

(Date)

(s) Eisenblaetter- Ass.

Signature of Defendant's Counsel

Decision of Tribunal

Presiding Judge.

FILED *808*
A. M. A. V. V.
Secretary General
for Military Tribunals

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, WOODBERG, GERMANY
17 MARCH 1948, IN CHAMBERS

342

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

Case No. 8

ORDER

On 11 March 1948, Rudolf Ascheneuer, counsel for the Defendant Heinrich Gottmann in Case 6, before Tribunal VI, filed in the Office of the Secretary General for the attention of the Supervisory Committee of Presiding Judges, a petition asking for a plenary session of the judges of all the Tribunals to declare Control Council Law No. 10 invalid.

The jurisdiction of the Supervisory Committee of Presiding Judges to convene a plenary session is limited by Article V-B of Military Government Ordinance No. 7 as amended by Ordinance No. 11 to those instances in which interlocutory or final rulings of the Tribunals are in conflict or are inconsistent.

It affirmatively appearing that there has been no determination with respect to the invalidity of said Control Council Law No. 10 by any Tribunal, the said petition must be dismissed for want of jurisdiction.

IT IS SO ORDERED.

Ernest B. Glaser
Executive Presiding Judge

W. C. H. H. H. H.
Presiding Judge, Tribunal II

B. C. H. H. H.
Presiding Judge, Tribunal III

William C. H. H. H.
Presiding Judge, Tribunal IV

John C. H. H. H.
Presiding Judge, Tribunal V

PROSECUTION NOTIFIED
DEFENSE NO.
19 March 48. *EVJ*

342
(2) *AL*

Munich, March 12, 1948.

To the Secretary General
of the Military Tribunals
of Case VI and Case IX

With regard to Dr. Aschenauer's request of 11 March 1948 for a plenary session of the Tribunals to consider the validity of Control Council Law No. 10, the Prosecution respectfully submits the following information for the consideration of the Tribunals:

Ordinance No. 7 as amended by Ordinance 11 specifically enumerates the circumstances under which a joint session of the Military Tribunals may be called. Article V-3 (a) provides that:

"A joint session may be called to hear argument upon and to review any interlocutory ruling which is in conflict with or is inconsistent with a prior ruling of another of the Military Tribunals."

Article V-3 (b) provides that:

"A joint session may be called to review conflicting or inconsistent final rulings contained in the decisions or judgments."

Dr. Aschenauer's application indicates clearly that there have been no inconsistent rulings by any of the Tribunals concerning Law No. 10. It is therefore apparent that there is no legal or valid basis for calling a joint session of the Military Tribunals.

For:	WELFRED TAYLOR Brig. General, USA Chief of Counsel for War Crimes
By:	<i>Benjamin B. Ferencz</i> Benjamin B. Ferencz Executive Counsel Chief Prosecutor, Case No. IX

Rudolf A s c h e n a u e r
Defense Counsel for
the defendant Ohlendorf

Munberg, March 11, 1948.

(stamp: Filed 11 March 1948, 1050
with Secretary General
for Military Tribunals
Defense Center

To the Secretary Generals
of the Military Tribunals
of Case VI and Case IX

On December 17, 1947, I requested in case VI the
Control Council Law No. 10 to be declared nul and void.

After the publication of the documents on Nazi-Soviet
relations 1939 - 1941 by the State Department I requested
these documents to be taken into consideration.

Part of the explanations in my oral plea for the defen-
dant Ohlendorf in Case IX on February 4 and 5, 1948, referred
to the Control Council Law NO. 10 too.

Dr. S e i d e l, defense Counsel for Dr. L a m m e r s
in case XI, recently undertook a move in the same direction.

Under these circumstances referring to my motion in
case VI of December concerning the Control Council Law NO. 10
I request a plenary decision to be taken and all pending
cases to be suspended till this decision has been announced.

In the case of the Control Council Law No. 10 being
nul and void the proceedings here are lacking their legal
basis.

/s/ Rudolf ASCHENAUER

Rudolf A s c h e n a u e r
Defense Counsel for
the defendant Gattineau

342
④
Nuernberg, March 11, 1948.

To the Secretary General
of the Military Tribunal
of Case VI

1058
FILED *11 March 1948* with
Secretary General
for Military Tribunal's
Defense Center

On December 17, 1947, I requested in case VI the
Control Council Law No.10 to be declared nul and void.

After the publication of the documents on Nazi-
Soviet relations 1939 - 1941 by the State Department
I requested these documents to be taken into
consideration.

Part of the explanations in my oral plea for
the defendant Ohlendorf in Case IX on February 4
and 5, 1948, referred to the Control Council Law
No.10 too.

Dr. S e i d l, defense Counsel for Dr. L a m m e r s
in case II, recently undertook a move in the same
direction.

Under these circumstances referring to my motion
in case VI of December concerning the Control Council
Law No. 10 I request a plenary decision to be taken and
all pending cases to be suspended till this decision
has been announced.

In the case of the Control Council Law No.10 being
nul and void the proceedings here are lacking their
legal basis.

Rudolf Aschenauer

342
⑤

APPLICATION BY DEFENSE COUNSEL ASCHENAUER
OFFICE OF CHIEF OF COUNSEL FOR WAR CRIMES

APPLICATION

of Defense Counsel

Rudolf Aschenauer

for defendant

Heinrich Gattineau

Case VI

(intended to be read in the session of 17 December 1947.)

FILED 17 Dec 1947
AS
Secretary General
of the War Crimes
Tribunal
Nürnberg, Germany

English

APPLICATION BY DEFENSE COUNSEL ASCHENAUER

In the sentence pronounced on 3 and 4 December 1947 in Case III, the American Military Tribunal tried to explain the principles determining Control Council Law No. 10. It cited a number of reasons to substantiate the basis of the trials.

One question, however, which I now submit to Military Tribunal No. VI the Court passed over in silence: The significance of the German-Russian Secret Treaty of 23 August 1939 for the coming into existence of the Law and incidentally for the proceedings instituted here.

I therefore enter a plea and make the following motions:

- 1) Let the Court examine the significance of the Secret Treaty, after that
- 2) ascertain, that Control Council Law, No. 10 is void as an international treaty, therefore does not constitute a basis for the proceedings instituted, since a state has collaborated as co-signatory whose responsible organ participated in the war of aggression, whose planning preparation and conduct in addition to collaboration in the same, is being prosecuted in accordance with the treaty in question. Justification for entering the plea and making the motions is based on the following:

The imaginative indictment of Case VI considers as Count I the collaboration of the defendants in planning, preparation, the start and conduct of aggressive wars and invasions of other countries. Their guilt is consequently connected directly with similar deeds of defendants in I Nurnberg War Crimes Trials.

As determined by the I Nurnberg judgement, invasions

APPLICATION BY DEFENSE COUNSEL ASCHENAUER

- 2 -

of individual countries were in accordance with a master plan. The characteristic of the unleashing of aggressive war can be divided outwardly as far as time is concerned into an attack on Poland, Norway, Holland, Belgium, France, Yugoslavia and Russia. From a legal point of view, the Prosecution looks upon these events as a series of events unrolling, which, starting with the attack on Poland on 1 September 1939 followed one another in a cause and effect sequence.

Basis for criminal prosecution because of participation in these deeds is Control Council Law 10 dated 20, December 1946.

Before going into my arguments, so that the motions may be considered by the Honorable Court in conjunction with the secret Supplemental Protocol dated 23 August 1939, proofs must be offered to corroborate the statement of the defense, that

- a) Russian deputies vested with full powers, in discussions at the Soviet Embassy ^{in Berlin} in 1932 thwarted the formation of a united front of German anti-fascist parties against the NSDAP, so as to enable the NSDAP to come to power.
- b) the NSDAP further was financially supported by Moscow before the seizure of power in 1933;
- c) the NSDAP further was permeated by elements whose allegiance was to Moscow.

As regards the formal side, as a precaution, I take the liberty of pointing out besides that article 2e of the Decree of Military Government No. 7 concerning constitution and competence of certain Military Courts, dated 18 October 1946, does not preclude the applications made.

The provision mentioned states:

"Neither the courts nor their members or deputy members can be challenged by the Prosecution, the defendants or Defense Counsel".

Article 2 e of Decree No. 7 combines two view-points, which, according to German Criminal Law are, as a rule, dealt with separately: the challenging of judges and the raising of interlocutory objections.

- 2 -

APPLICATION BY DEFENSE COUNSEL ASCHENHAUER

- 3 -

Decree No. 7 gives power to determine such a limitation of procedural rights of the defendant. In the case in hand however, it is not a question of the raising of such a protest. Challenging of individual judges or of the whole Tribunal (the latter is also not permissible according to normal German criminal law) is not intended here, at all. Nor am I disputing the procedural competence of the Tribunal. The objections are in another direction rather, and that, in such a one as should not be excluded or cannot be excluded by Article 2 e of Decree No. 7.

I start the question whether the proceedings, in view of the international history of origin of the norms determining punishment of war criminals, is permissible at all. Doubt is therefore cast, not on the merely material and legal competence of the Court as such, (this would not be worth considering according to Article 2 e of the Decree named), but the basic question is posed as to whether the whole system of material and procedural norms laid down for judging war crimes, especially in view of its origin, can make any pretension to legal validity at all. Such a conclusion naturally cannot be excluded by a provision such as is contained in Article 2 e of Decree No. 7. Crudely expressed: a law that is materially or formally void cannot escape scrutiny simply because it forbids it, rather the right remains and, in circumstances, also the duty to examine legally every norm, which will have to be demonstrated later.

For these reasons the provision of Article 2 e of Decree No. 7 is not opposed to the application.

I present the following reasoning in support of the plea and motions:

I.

The direct international basis of the prosecution of the German War Criminals is the so-called Moscow Declaration of 30 October 1943. Literally this common declaration refers, it is true,

- 3 -

APPLICATION BY DEFENSE COUNSEL ASCHENHAUER

- 4 -

only to the war criminals in the narrower sense, i.e., the perpetrators of atrocities in territories occupied by the German Armed Forces during the war; principles laid down in it have however achieved general significance for the prosecution of all guilty according to Article II of the later Control Council Law, No. 10. This holds in particular for the principle that the prosecution of those guilty of and in the war, should be the joint affair of the Allied Great Powers. On the basis of the provisions within the framework of the Moscow Declaration, the London Agreement of the Four Great Powers was issued on 8 August 1945 after conclusion of hostilities as a result of which constitution of a Tribunal for passing judgment on such deeds was agreed on, for which a regionally defined place of crime does not exist. A statute was added to this agreement which regulated the constitution, competence and procedure of the Military Tribunal. Justification for issuing such a statute has been thoroughly established in the Nuremberg Main verdict of 1 October 1946 among others: "The Statute was elaborated in exercising the sovereign power of legislation of those States to whom the German Reich surrendered unconditionally and the irrefutable right of those countries to issue laws for the occupied territories has been recognized by the civilized world. The Statute is no arbitrary exercise of power on the part of the victorious nations but, in the opinion of the Tribunal, as will be shown, the expression of International law in existence at the time the Statute was made; to this extent the Statute itself is a contribution to International Law".

From the fact that the Allied Great Powers, represented by their organs authorized to act in accordance with international law, issued this Statute as an integral part of the London Agreement dated 8 August 1945, as well as from the characterization of the Statute by the verdict of the International Military Tribunal, it inevitably ensues that this Statute itself is to be regarded as an international treaty between the participating Great Powers. Nor has this result been doubted by any party. Be that as it may, it is important to refer in particular to the legal nature of the Statute.

- 4 -

APPLICATION BY DEFENSE COUNSEL ASCHENAUER

- 5 -

Looked at from the point of view of formal law, the prosecution of further war crimes cases has not been carried out on the basis of the Statute dated 8 August 45, but on the basis of norms which differ from this both as regards source and order. The Control Council issued on 20, December 1945 the well-known Law No. 10 which contained the substantive provisions and the general basic characteristics of procedural law for war crimes trials in view, which had not been proposed for a hearing before the International Military Tribunal. The question is therefore what type of law, from the point of view of source and validity, this norm characterized as "Law No. 10" is to be considered. In our opinion, Control Council Law No. 10 is to be termed a law issued by the Inter-allied Occupation Power valid for Occupied Germany, materially on the other hand an international treaty and, at that, a so-called implementation or execution Agreement to the London Protocol dated 8 August 1945. The possibility and necessity of attributing to the same legal norm the nature of both treaty and law is no anomaly in legal practice but is quite customary and occurs frequently.

This dual nature of norms in question results from the peculiar dualistic position conceded by the Occupying Regime to the Control Council.

a) The Control Council exercises sovereign power "in Germany". It is the supreme legislator for the German Reich territory, the only legislator too in principle in the spheres reserved to it. As a result of total capitulation, the Declaration dated 5 July 45 and the Potsdam Agreement, it has taken the place of the previous legislator for the Reich. Therefore, norms issued by it valid for German Reich territory have the character of German laws.

b) At the same time, the Control Council is also an international Inter-allied organ. Whether one designates the community of states represented by it - the 4 Allied Great Powers - as a Federation of States, as international local administrative union as condominium union or something else, is immaterial. The fact that the Control Council functions simultane-

ly

- 5 -

APPLICATION BY DEFENSE COUNSEL ASCHENAUER

- 6 -

as organ of the 4 Great Powers within the scope of the competence conferred on it by the Agreement mentioned, is alone decisive. True, its powers are limited, also the Control Council, for its part, is under the immediate supervision of the Conference of Foreign Ministers, yet the fact that the Control Council is, at the same time, an inter-Allied, international organ of a community of states, remains unaffected by these limitations. It ensues that the Control Council Law No. 10 represents, in the first place, an international agreement, that, at the same time however, it is a valid "internal" law for Germany.

As a treaty, Law No. 10 - without prejudice to its formal putting into operation and publication as internal German law - is subject to the critical examination to which every international agreement is subjected as regards origin, efficiency and range. In particular basic laws recognised by common international law concerning nullity, invalidity or concrete non-applicability of treaties, must apply also to Control Council Law No. 10.

The legal nature of Decree No. 7 of Military Government, as regards constitution and competence of certain military courts dated 18 October 1946 is to be judged in another way, according to article II of the Decree, the latter was issued "..... on the basis of the authority of the Military Governor of the American Occupied Zone of Germany, as well as on the basis of the powers conferred on the Commander of the zone by Control Council Law No. 10 and Articles 10 to 11 of the Statute of the International Military Tribunal (Appendix to London Protocol dated 8 August 1945)." True the Military Governor of the actual zone of occupation has to a certain extent a dual role too; within the scope of his authority he is the supreme "internal legislator" within the zone at the same time an organ of the state whose armed forces occupy the zone also, empowered with limited international competence. Yet in connection with the case in question, this dual role plays no part; for Decree No. 7 has been issued - like customary legal norms of so-called "zone law" - by the Military Governor in his capacity as internal

- 6 -

APPLICATION BY DEFENSE COUNSEL LOSCHTANER

- 6a -

some legislator, as the person vested with supreme legislative power within the zone, looked at from a formal point of view, therefore, Decree No. 7 is not an international norm from the point of view of law but merely an internal norm.

- 6a -

APPLICATION BY DEFENSE COUNSEL
ASCHENAUER

- 7 -

Materially from the point of view of its legal validity, it ^{too} cannot, entirely be solved by the Control Council Law No. 10 either. It was issued for the purpose of carrying out an international treaty, that is the Control Council Law No. 10. As an implementary regulation it cannot have material independence from the rule, which it is supposed to realize procedurally and state more precisely. If for instance the Control Council Law No. 10 should be abrogated or fundamentally changed, then this Decree No. 7 would not be affected by that formally, but materially its basis for application would have disappeared. The same could, under circumstances, be true for the case that a change in the legal interpretation of Control Council Law No. 10 would eliminate entirely or partly its material effectiveness, also in this case Decree No. 7 would be affected.

As a result, therefore, it is to be kept in mind that Control Council Law No. 10 is only formally an internal state law, in view of its origin and effect, in other words materially, it is an international treaty and is in particular in examination of its actual applicability subject to the general rules in force regarding international treaties. The Decree No. 7 is an internal-legal implementary regulation of an international treaty and therefore, even though formally independent of it, bound in its material effectiveness by the validity of that agreement.

II.

In my view the London Protocol of 8 August 1945, with all the rules issued for its supplementation and execution, constitutes a new legal institution, from the angle of international law, seen politically it is an experiment. The London treaties including the implementary regulations must be classed with those treaties that in view of the subtlety of the questions dealt with will in future only then be able to claim validity and general recognition, if these treaties have originated with politically loyal partners in a politically loyal manner. If this is the case, then the principles laid down for the first time in these treaty instruments and practically applied in Nuremberg

APPLICATION BY DEFENSE COUNSEL
ASCHENAUER

- 8 -

for the first time will succeed and be able to claim validity for all future; however, if this is not the case, then the public conscience will some day, sooner or later, form a negative opinion about this kind of procedures, entirely without regard to the number of judgments pronounced and the number trials actually held, and the time will inevitably come, when this kind of procedures will not be considered as a continuation, but as a misuse of international law, and the holding of these trials will no more be regarded as generally binding criminal justice.

Therefore it must be examined, whether the London treaties of 8. 8. 1945 with implementary regulations can stand up against the objective criticism, which public conscience is entitled to raise against such a far-reaching and somewhat novel institution of international law. The substantive criminal law is not under discussion in this application neither the proceedings as such. In this application it is requested to examine, from the viewpoint of international law, the tenability of these group of treaties in reference to one part of its originators and their own conduct relevant to international law. The axiom "Nobody may be judge in his own matter," is a matter of course rule for the national penal law. This is expressed by the catchword of the "Judex Inhabilis": The judge is excluded from exercising his authority, if he himself was hurt by the criminal act or has a certain close relationship to the injured. Another reason for excluding the judge is not even mentioned in the procedural codes because it is absolutely evident.

also

The judge may not exercise his powers as a judge if he himself is under suspicion of being a perpetrator or participant in the crime that is up for judgment. Compared to the national law of criminal procedure the principles of "Judex Inhabilis" can in international law naturally be of only lesser importance. In international courts the participation of such states, directly or indirectly injured by the actions under indictment, will only in the rarest of cases be preventable and just on this "incompatibility" the misgivings are based, which again and again have been expressed in all countries against the exercise of an international jurisdiction.

APPLICATION BY DEFENSE COUNSEL
ASCHENAUER

- 9 -

We shall not go into that in this connection. But contrary to that the principles in force regarding the unfitness of the judge suspected of the crime claim significance also for the international law and the more so: The accomplice to war crime or even more the provoker of it must not be considered qualified to participate in proceedings against such war crimes.

It requires no special argument that the principles developed here have only indirect significance for the concrete proceedings. The country, to which the judges of the concrete proceedings belong, is free from suspicion of complicity in the instigation of an aggressive war. Something more profound is involved here: The same principles applicable to the judge must also apply to those instructing the court and providing the rules for the judge's decision. An international treaty designed to punish war criminals can demand respect and validity only then, if all the parties to the agreement are themselves beyond reproach regarding the criminal actions, the judgement of which they refer to a special court by international statute. In case, however, one of the states participating in the treaty has put itself outside the international law by participating in crimes that are subject of the indictment, then the judicial sovereignty of the tribunal is tainted with an unremovable defect, no matter which one of the victorious nations provides the judges. Considering the question of general validity such rules of procedure cannot constitute a "contribution to the development of International Law"; for a treaty that originated in this manner lacks a priori that authority before the "conscience publique", which such a novel creation in international law must possess if it is to succeed. The participation of an illoyal partner destroys the authority of such an agreement and is liable to make the participation of the partner not incriminated appear in a light detrimental to the validity claim of the international agreement.

342
(16)

APPLICATION BY DEFENSE COUNSEL
ASCHENHUTER

- 17 -

From the viewpoint of international law the validity of such a treaty is opposed by a cause for ineffectiveness (Unwirksamkeitsgrund). At this point the statement may for the time being suffice that under certain conditions an "exceptio expersone" directed against the whole conduct of one of the treaty partners may justify the invalidity of the whole treaty system. Therefore the reasons must be at first examined, the affirmation of which must in our opinion lead to denying the quality to the Soviet Union of being a qualified party to the agreement of 8.8. 1945.

III.

In this connection it may be disregarded to what extent the Soviet Union regards itself bound by the system of the so-called war renouncing agreements (Kriegsachtungspakte). It is known that on 25 July 1932 she concluded a non aggression and neutrality treaty with the Polish Republic. This treaty which both parties ratified, was undisputedly in force at the time Polish-German relations became acute in 1939. In its contents this treaty corresponded with the other treaties which the Soviet Union concluded with the border states and of which the common characteristic feature was that the Soviet Union summarized the rights and duties of the treaty partners always in bilateral agreements only, while avoiding a collective participation of the other bordering states, in order to prevent by that as far as possible, the eventual forming of a block among the border-states themselves.

In detail the agreement of 25 July 1932 contained the following obligations:

- a) A non-aggression obligation;
- b) a neutrality obligation;
- c) an arbitration court clause
- d) a clause, concerning the prohibition to participate in any agreements directed against one of the treaty partners.

This agreement was, as mentioned, not renounced by either party and in force, when the historic negotiations took place between Ribbentrop and Stalin in Moscow on 23 August 1939.

APPLICATION BY DEFENSE COUNSEL
ASCHENAUER

- 11 -

The agreement which was reached there found its expression in two immediately effective treaties: the so-called non-aggression pact of 23 August 1939, whose contents were soon afterwards announced to the world, and the "secret supplementary clause to the non-aggression pact" of the same date, which, in accordance with the purpose for which it was meant, pursuant to article 2, "was to be given top secrecy treatment by both parties". In the first Nuremberg trial, the secret supplementary clause was not introduced in evidence. Its text was given by the American representative of the Prosecution, Thomas I. Dodd, in the course of the trial, to the correspondent of the "Saint Louis Post Dispatch", Richard D. Stokes, who published it in the above mentioned paper on 23 May 1946.

That the text of the secret clause was not admitted during the first trial was based on the court's belief that the origin of the document could not be established with certainty. This situation, however, has changed after the first Nuremberg trial. Although 18 months have passed since the secret clause was first published, and although the International Military Tribunal did not doubt the existence of such a clause, the Soviet Government did not so far refute its existence. Details about the negotiations concerning the secret clause, and that it corresponded to the meanwhile published text, have furthermore been confirmed by the testimony given by Dr. Fr. Gaus during the Nuremberg trial of 15 March 1946. Taking all this into consideration, there is neither any reason nor any possibility to doubt the existence of the secret clause, the more so as the prejudication of the first trial is not shaken in any way; the guilt attributed to organs of the German Reich regarding the aggressive war against Poland, which has been ascertained in the first Nuremberg trial, cannot be voided by the existence of the secret clause; however, the first Nuremberg trial did not prejudicate that the responsible organs of the Soviet Union were innocent, or that they did not participate. This evidence, therefore, cannot thus be excluded.

APPLICATION BY DEFENSE COUNCIL
ASCHENAUER

- 12 -

additional

The secret clause to the non-aggression pact reads as follows:

"Following the signing of the non-aggression pact between the German Reich and the Union of the Socialist Soviet Republics, the undersigned plenipotentiaries of both parties, in a strictly confidential discussion, debated the question of demarcating their respective spheres of interest in Eastern Europe. The discussion yielded the following results:

- 1.) In the case of territorial-political changes in the territories of the Baltic States (Finland, Estonia, Latvia, and Lithuania) the northern borders of Lithuania shall form the common demarcation line for the German and USSR spheres of interest. Both parties, in this event, will recognize Lithuania's interest in the Vilna area.
 - 2.) In the case of a territorial-political change in the territories of the Polish State, German and USSR spheres of interest will be approximately demarcated by the line formed by the rivers Plesna, Karow, Vistula, and San. The question, whether the interests of both parties would make it desirable to keep an independent Polish State in existence, and how this state's borders should run, can only be finally settled in the course of future political developments. In any of these cases, the two governments will solve this question by the method of friendly negotiations.
 - 3.) Concerning Southeastern Europe the Soviets wish to stress their interest in Bessarabia.
 - 4.) Both parties will treat this as a strictly secret clause.
- Moscow dated 23 August 1939

For the German Reich Government: v. Ribbentrop
For the Government of the USSR: W. Molotov."

The clearness of the goals which both parties aimed at in this pact, which, at least as far as Finland - after the British-French guaranty - and above all, Poland are concerned, could only be achieved by armed aggression, speaks a sufficiently distinct language, in spite of all formal wording which is expressed in possibilities.

APPLICATION BY DEFENSE COUNSEL
ASCHENAUER

- 13 -

Nevertheless, in order to signify the nature of this pact, which was the actual focal point of all the agreements and which degraded the "non-aggression pact" into nothing else but a front, certified evidence will be submitted, which has been supplied by persons who participated in those negotiations. According to Ribbentrop's testimony at the first Nuremberg trial, he and Stalin never thought of including the possibility of a peaceful settlement of the German-Polish conflict; on the contrary, Stalin stated that the negotiations would have to be considered as broken down, if the USSR did not receive a promise that she would obtain half of Poland, Lithuania, and the port of Libau. Agreeing in the essential points, but by far more comprehensive, is the affidavit by Dr. Fr. Gause, the chargé d'affaires of the Legal department in the Foreign Office. According to his testimony, Ribbentrop, during the negotiations with Stalin on 23 August 1939, mentioned the attack against Poland as a very possible move, although not referring to it as a matter, definitely decided upon - which is clear enough in diplomatic intercourse; The Soviet representatives took note of this statement and, afterwards, commenced the discussions on the territorial problems that would arise from such an "eventuality".

Politically viewed, the contents of the secret clause boil down to a relatively simple formula:

All those concerned knew full well that the German war of aggression against Poland was only made possible by the Russian attitude. From this - in case of a Russian abstention by no means "impending", but for all practical purposes completely impossible, in any case, highly improbable - "eventuality" of a German attack against Poland, the impending German attack became an absolute certainty following the Russian approval. That, dynamically, it was not Germany but the Soviet Union which touched off the aggression against Poland, cannot be doubted when considering the attitude of the Kremlin in those fateful hours: The share in the booty, which with Eastern Poland, the whole of the Baltic States, and free hand in Finland

APPLICATION BY DEFENCE COUNSEL
ASCHENAUER

- 14 -

and Romania, by far exceeds the gains, ^{imaginable} under the most favorable conditions of the actual "aggressor", is a symptomatic expression of the all-important part the Soviet Union played in the launching of the European war. That much about the political aspects.

In the light of international law, the attitude of organs of the USSR towards Poland, at least signify a violation of, the treaty of 25 July 1932; In this treaty the Soviet Union assumed the obligation not to participate in any agreement which was directed against the other signatory of the pact. It can be said that there is hardly a more severe form of an agreement, directed "against" another state, than that which prepares and makes possible the military annihilation and mutilation of the co-signatory. And it is equally difficult to conceive a more drastic form of "joining" or "participating" in such a treaty, as the one chosen by the USSR; for, from a political point of view, this was a partitioning agreement, to be realized by force of arms, which was solely the concern of the USSR and the German Reich. The fact that both states, Germany and the USSR, "considered" or were "prepared to consider" the possibility of the continued existence of a territorially smaller Poland, makes just as little difference in the face of the irrefutable marking off of spheres of interest, as the fact that the decisive battle was to be fought by the German Wehrmacht, while, in the first stages, the Soviet Union was remaining in the background.

The fact that the Soviets march into Polish territory was supported by the argument of the "decline", respectively the "cessation" of the Polish State, which, in the eyes of the Soviet Union resulted in the end of the Polish sovereignty, and thus the expiration of the Soviet non-aggression obligations from the pact of 25 July 1932, bypasses the actual issue, and can only be assessed as a pretence. For at that time a demilitarization of Poland had not taken place yet, even according to German views, and the German military and political authorities were themselves surprised by the premature marching of Soviet troops into the Polish Eastern territories. However, this is not even the point of in question. For the violation of the Soviet Polish treaty of 25 July 1932 did not take place.

APPLICATION BY DEFENSE COUNSEL
ASCHENAUER

- 15 -

only on 14 September 1939, the day of the invasion, but already by concluding that secret agreement on 23 August.

The actions of the Soviet Union not only mean an offense against Poland in the light of international law, but an offense against the community of nations in general. Apart from its regional non-aggression and neutrality pacts, the Soviet Union, as a co-signatory, was also bound by the provisions of the Kellogg Pact, which, in its diplomatic relations, it tried to lend specific importance by stating that it concluded many of its non-aggression pacts, after the Kellogg Pact had become effective, with its neighbor states as an "extension" of, an "enlarging" upon the ideas of the Kellogg Pact; thus, the Soviet-Polish non-aggression pact expressly refers to the Kellogg Pact. In its capacity as member of the League of Nations since 1934, the USSR had the same obligations to secure the peace.

To conclude this paragraph I want to refer to a statement made by Daladier in his speech of 13 July 1946 in the French constituent assembly, in which he declared: "the Soviet Union conducted two negotiations at the same time: One secretly, and another one almost publicly. Russia's decision, as Leon Blum sees it too, has actually been made as early as April".

Sir Neville Henderson in his memoirs "Failure of a mission" comments on this even more comprehensively: "It is hoped that some light will be shed on the question, whether Stalin had a secret agreement with Hitler from the very beginning, and that he wanted to protract his negotiations with us to the point, where Germany would have been ready to launch its attack, or whether both Germany and ourselves were merely his tools. I personally am inclined to accept the second explanation, but this is a mere assumption; I, too, am biased. From the beginning I considered the Russian negotiations as something that should be tried, but in which all sense of reality was lacking. I never believed in any effective or altruistic Russian assistance for the Poles. On the other hand,

APPLICATION BY DEFENSE COUNSEL
ASCHENAUER

- 16 -

I hoped that, if the Soviet Union - even only in a very half-hearted way - would join the peace front, Hitler would consider it more advisable to be prudent, and decide in favor of peaceful discussions. But again and again I was of opinion that Moscow's chief aim was to involve both Germany and the Western Powers in a common disaster, and to emerge from the conflict as the victor.

IV.

The above specified attitude of the responsible organs of the Soviet Union, in conjunction with international law, not only meets all the prerequisites, embedded in international law, clauses of the so-called offence against international law, as it has been recognized for a long time. Beyond that, it also constitutes a crime against international law, as defined in the London Statute of 8 August 1945.

According to the standard of the "new international law" created by the London Statute, only war crimes committed by the vanquished are to be tried, while the international penal code and jurisdiction does not cover the victor nations, their organs, and acting persons. Legally viewed, this is only an exemption from trial which, because of international legal or political reasons, not to be exercised in this connection though, excludes a calling to account by trial of any of the victor nations or their members. If it were otherwise, the non-prosecution of members of the victor nations could only be based on the presumption that no international legal organ and no belligerent of the Allies had at any time committed a crime, in the sense of the London Statute, during the whole of the war. There is no one who could seriously advance such presumption.

/ united against the Axis /

APPLICATION by DEFENSE COUNSEL ASCHENAUER

The failure to prosecute these cases may be due to reasons of politics, may be even of international law; in the extreme case even to reasons of procedure - all this does not alter the fact that as far as substantive penal law is concerned all the elements of these offenses are present in a number of cases. The fact that these offenses are committed by the opposite party, can, in a special case, not be prosecuted must by no means result in the consequence that the existence of these crimes is denied where legal consequences other than a concrete prosecution are ensuing. Substantive criminal law of all civil states offers sufficient evidence for the correctness of the opinion expressed in this statement. The accomplice in, or instigator to, a crime is prosecuted even if the principal cannot be reached, possibly because he escaped abroad. The receiver is punished even if the thief has evaded punishment by committing suicide. These principles are to apply also to the proceedings in question. Just as the action of an accomplice or co-principal in a crime cannot be judged conclusively, unless at the same time the nature of the participation of a person who was a party in crime, but is exempted for personal reasons, has become clear, the admissibility of a judicial procedure in the case in question depends upon the fact, whether or not parties, who have escaped prosecution for reasons of politics or international law, have themselves realized one of the elements of the offense enumerated in the Statute. The 1st Nuremberg sentence, here, it is true in its proceedings precluded this in many cases - only effective way of defense by rejecting the notions to take evidence about these topics. But since by the opinion contained in the sentence this conception has not been prejudiced, there is still a judicial possibility left to pose this question as decisive for the trial now, quite apart from its essential necessity.

In our opinion the conduct of the officials acting for the Soviet Union, as responsible according to international law, in August 1939 has indeed realized the elements of an offense within the compass of the London Statute. Only by their conduct the war has become possible and has been unleashed, and, to be precise, not only the isolated war against Poland, but the war 1939 to 1945 in general.

That the unleashing of the war against Poland would, in view of the existing group constellation and the existing guaranty pledges, necessarily lead to the general world war, is pronounced in the opinion of the 1st Nuremberg sentence in unmistakable terms: "The Tribunal is satisfied that the war started by Germany against Poland on 1 September 1939 was obviously a war of aggression, which inevitably could not but

APPLICATION BY DEFENSE COUNSEL ASCHENAUER

expand to a war embracing the whole world, and which had as a consequence the commission of innumerable crimes against the laws and usages of war as well as against humanity. "In particular, the statements made above leave not the slightest doubt about the fact that the responsible officials acting for the Soviet Union have by concluding the secret agreement with the German Reich, realized, both as principals in, and as accessories to, the crimes the elements of an offense as outlined in the London Statute, or Art. II, subsection 1a of Control Council Law No. 10. The fact that the invasion originated from the Germans, does not in the least affect the responsibility of the Soviet Union, as far as the elements of the crime are concerned, because her contribution to the realization of the crime is to be found in the very conclusion of the secret pact which immediately preceded the war. The chain of causation is unbroken in this regard. The agreement of the Soviet Union was the condition sine qua non of the war of aggression. It must, likewise, be considered a proven fact that the officials acting for the Soviet Union acted with intent in concluding the secret pact. They realized that the protection of the German rear which they had granted made the attack possible, and concluded the pact just on account of that fact. The dismemberment of Poland was even, as a matter of fact, the only result intended by that step. The collusion between both the partners in that pact constitutes therefore the elements of joint planning, or conspiracy, according to the Statute.

Whether or not an individual responsible person, or a state, that realizes the elements of a crime according to the London Statute, or to the Control Council law, may, by committing the same action, be held accountable also as an accessory, has not been clearly established by the prejudicial findings of the Nuremberg sentence. As a matter of precaution it should be pointed out that the liability of the Soviet Union for the outbreak of the war would not be affected by not considering her, or the officials acting on her behalf, as direct principals. According to the London Statute and Article II, subsection 2 of Control Council law No. 10 any person is deemed to have committed a crime, if he was a principal, or was an accessory to the commission of such a crime or ordered or abetted the same or was connected with plans or enterprises involving its commission. There is no doubt that most of the modalities of participation quoted therein are present. Above all, there is no denying the fact that the Soviet Union - even if she should not have caused the war of aggression against Poland - abetted it intentionally as an accessory.

It must be deemed an established fact ^{that} the responsible officials acting for the Soviet Union have realized the elements of crime as outlined above both with regard to its objective characteristics and to their mental intents.

APPLICATION BY DEFENSE COUNSEL ASCHENAUER

The fact that, according to the findings of the 1st Nuremberg sentence, the aggression originated from the German Reich, does in no way affect the presence of those characteristics of a crime. It is a recognized principle in every civilized state that the liability with regard to criminal law is a personal one, and a so-called "compensation of guilt" (Culpa-kompensation) does not apply. Whoever is connected with the commission of a crime is liable in the proportion of his own individual guilt, without regard to the guilt or even culpableness of the other participants. The findings of the 1st Nuremberg trial that Germany was an aggressor and thus guilty to have caused the war, is no obstacle for ascertaining here the facts and evaluating them in the trial. The fact that the aggression originated from one state, does not preclude the possibility to investigate further that aggression which had been made possible and unleashed by the conduct of another state in violation of the rules of international law.

7.

Though it is true that the officials of the state that shares the guilt may, as exempted according to the Statute, not be prosecuted, their conduct, in as far as it realizes the elements of a crime, may and must be utilized for arriving at some definite conclusions which are most relevant for this trial. It will be up to this Tribunal to examine the question, in how far a possible precedent of the 1st Nuremberg trial, to the effect that the question of guiltiness of the Soviet Union could not be gone into because of her equal rights as co-victor and partner in the new international penal code, still stands. For, in the last resort, it is the task of this trial to contribute to the finding of the truth. This task becomes illusory if the past actions of a partner are to be regarded as unimpeachable, of a partner at that who proves his quality as an outsider to the community of nations with ever increasing clearness.

VI.

In the civil law systems of nearly all the civilized states it is a recognized principle that under certain conditions even the personal qualities and circumstances of the partners in an agreement may be accepted as a tacit, generally implied basis of the agreement. This applies - in order to refer, at first, only to civil law - especially to agreements which are dealing with terms of time or relationships of trust. In agreements of this kind

APPLICATION BY DEFENSE COUNSEL ASCHENAUER

the personal circumstances of the partner of the agreement is of a decisive importance. Now, if a partner maliciously conceals qualities which would, after an objective evaluation of all the circumstances, render him unfit for the partnership, entitling the other partner to abstain from concluding the intended agreement, or else if he even tricks the other partner positively into believing that those qualities are absent, such an agreement is, according to the prevalent conception, to be considered void.

The consequence that the participation in an agreement of a partner who is personally lacking in the qualifications for the conclusion of such agreements has the effect of destroying the agreement, of making it void, lends itself no doubt to a translation into the spheres of international law (for which there exist some parallels in the law of international covenants). If, e.g., a permanently neutralized state, say, Switzerland were to join an alliance between two other states, the act of joining the alliance would, since Switzerland lacks the necessary ability of action, be subject to a defect which would destroy its legal validity so as to be unable to accomplish any legal effects. This was the reason why Switzerland, when she in 1920, joined the Geneva League declared on 13 February 1920 that she would not be a party to the mutual obligation to military assistance incumbent on all League members. Only by that declaration the joining of the League of Nations by Switzerland became permissible.

My task now is to draw a parallel to the case in question. It is, of-course, impossible to deny the general ability of action of the Soviet Union with reference to the fact that the officials acting on her behalf themselves had, at that time, become guilty of some definite offenses as outlined in the London Statute. On the other hand, there is an obstacle, originating from the qualities of the persons involved (ex persons), for the participation of the Soviet Union in such international agreements purporting the regulation of the punishment of perpetrators of crimes against peace. This conclusion is arrived at by the following considerations; the moral meaning of such agreements would be turned into its reverse, if states were able to participate in their conclusion, which have, through their officials, committed or ordered the commission of the very same crimes. The legal validity of such an agreement would suffer a severe blow in the face of the world public opinion, from which it could never recover. And finally, the other, loyal partners of such an agreement would by compromising with the outsider, necessarily lose their own reputation as the guardians of international lawfulness.

APPLICATION BY DEFENSE COUNSEL ASCHENAUER

The effect of such legal obstacles originating in personal qualities does doubtlessly not lend itself to be judged by a generally accepted yardstick.

Certain agreements of vital importance, (e.g. alliances or pacts in which the personal loyalty of the partner is not so essential, would, therefore, justify the adoption of a generous standard. Quite differently from that, however, are such agreements to be judged, in which loyalty, from the point of view of international law, is one of the basic conditions for the success or failure of the pact. This particularly applies to agreements claiming to represent a contribution to a new, purified, progressive international law, that is in a particular measure to agreements purporting, as the London Statute and Control Council law No. 10 do, the punishment of war crimes. It would be wrong to overlook that the very fact that according to those pacts the victors are passing judgment over the vanquished, constitutes a severe moral handicap for the pacts. Agreements of that kind are from the outset subject to a particular criticism, and that not only in the eyes of the vanquished nations. This criticism would yield to general approval, to a unanimous opinion necessitatis, only in the case that only those partners were participating in the agreement about the punishment who have no share in the guilt. In the reverse case, and if states, which were a party to the crime, are admitted to the assembly of the legislators for the only reason that the war has gone in their favour, judgment is passed by the conscience publique.

In order to avoid a misunderstanding which might arise, it is necessary to emphasize in this connection that the responsibility of the German war criminals with regard to substantive criminal law is in no way affected by the accessory or secondary guiltiness of the officials acting for the Soviet Union. Yet, the application of the agreement relating to the punishment is deprived of any material basis, if the conclusion suffers of a deficiency of the above mentioned kind. Questions of procedure, not questions of material responsibility are under discussion.

We have filed the motion that it may be found that the London agreement with its implementation regulations be declared ineffective for this trial. The London agreement is incapable of producing a new "positive international law". In this connection the fact may be noted that this incapability is based not on the ideal goal of general international agreements for the punishment, but exclusively on the fact that the agreement has been concluded under participation of a concretely incapacitated partner.

APPLICATION BY DEFENSE COUNSEL LSCHENAUERVII.

To set forth this objection in this Case, since the relation of the judge to the law as laid down in a characteristic manner in American law opens the way for it. It seems natural to take the right of the American judge to examination, as regards the constitutionality of statutory law, as a parallel, the more so, since the unwritten rules on the right of the judge to examination are valid for all American judges, and consequently also for the Military Tribunal constituted by virtue of Ordinance No. 7.

The London Statute, the Control Council Law No. 10, and the implementation rules based on them pretend to be building-stones for the new International Law and more than once the sentence appeared in the opinion of the first Nuremberg verdict that all that was formulated by the London Statute as a treaty forming a basis for the conviction especially of the German war criminals, was in its sense nothing but a law of general validity, a rule of the International Law. If, however, this is the case, this law must be subject to the examination on the part of the judge who is entitled to its application, as is every law with regard to its constitutionality. If we adopt the American conception of law, there is no reason for treating an agreement pertaining to International Law in a different way than national, internal law. On the contrary; in the field of national legislation there are generally - already because of the homogeneity of the legislative authorities - more guarantees that the individual laws are in conformity with the sense and the framework of the constitution than in International Law, where the body of legislators is more or less a motley crew, more or less appointed by hazard - you have to think only of collective treaties like the one in question. Rules of International Law are also subject to the right of the judge to examination.

Therefore it will be necessary that every sentence of the International Law be examined by the Tribunal as to its concordance with the generally recognized basic rules of International Law. These basic principles, whose existence, although it is difficult to ascertain and define them in the individual cases to-day, is absolutely uncontested today at a time at which especially the International Law falls back upon axioms which are superordinate to law but based on "conscience publique," take here mutatis mutandis the place of national constitutional law.

APPLICATION BY DEFENSE COUNSEL ASCHENAUER

The general basic rules of the law applicable to treaties also belong to the basic principles of International Law. The rules on the validity or invalidity of treaties, although their interpretation may be disputed in individual cases, are the more general, more comprehensive and older ones as compared with the system of the London treaty; just as a treaty based on International Law must be considered as being invalid if it restricts f.i. the sovereignty of a State in an immoral way, just because the respective prescriptions of the treaty are contrary to the superordinate and generally valid rules of sovereignty, agreements based on International Law which were signed ad hoc and show a deficiency recognized by the general legal principles of International Law are likewise to be considered as being null and void.

Therefore the American Military Tribunal is not exempted from the obligation to examine the material validity of the London treaty and the rules issued for its carrying out, especially since the Military Tribunal No. II has, in my opinion, also adopted this conception in its statements in the verdict against ALTSTOETTER and others. The examination "of the constitutionality" is replaced here by the obligation to the London treaty, issued on a vitiated basis, with respect to its compatibility with the superordinate general rules concerning the validity of agreements based on International Law.

If, as a result of such an examination, the Tribunal finds that a deficiency of this kind exists in the aforementioned treaties, this will be a peremptory objection to the continuation of the proceedings. It must be left to the Tribunal to let this procedural objection take effect on the trial.

(signature) Rudolf ASCHENAUER

Application Aschenauer

CERTIFICATE OF TRANSLATION

13 December 1947

We, Mary Flack Perry, 20136, Adolph Lusthaus, B 398010, Ludwig Heymann, 35096, Robert Hoffmann, 20162 hereby certify that we are duly appointed translators for the German and English languages and that the above is a true and correct translation of the Application Aschenauer.

Mary Flack Perry
20136

Robert Hoffmann
20162

Adolph Lusthaus
B 398010

Ludwig Heymann
35096

"And"

342
(31)

ANTRAG
des Verteidigers
Rudolf Aschenauer
für den Angeklagten
Heinrich Gattineau
FALL VI



(zum Vortrag bestimmt in der Sitzung am 17.12.1947)

German

Rudolf A s c h e n a u e r
Verteidiger fuer den
angeklagten Cattineau

Muerenberg, den 9.12.1947

An den

Herrn Generalsekretaer des
Militaergerichtshofes VI.,
M u e r n b e r g.

In Anlage uebergebe ich nachfolgenden Antrag
(Datiert zum Vortrag im Fall VI am 17.12.1947),

Rudolf Aschenauer

Anlage.

In dem am 4. und 4. Februar verkündeten Urteil im Falle III hat das Amerikanische Militärgericht die Grundlagen des Kontrollratsgesetzes Nr. 10 zu begründen versucht. Es hat eine Reihe von Gründen aufgeführt, um die Grundlage der Prozesse zu erbaeren.

An einer Frage ist das Gericht jedoch stillschweigend vorbeigegangen, die ich jetzt dem Militärgericht Nr. VI vorlege: Die Bedeutung des deutsch-russischen Geheimvertrages vom 23. August 1939 fuer das Zustandekommen des Gesetzes und damit fuer das hier anhaengige Prozessverfahren.

Ich erhebe daher Prozesseinrede und stelle folgende Antraege:

- 1.) Das Gericht moege die Bedeutung des Geheimvertrages ueberpruefen, sodann
- 2.) feststellen, dass das Kontrollratsgesetz Nr. 10 als voelkerrechtlicher Vertrag nichtig ist und daher keine Grundlage fuer das anhaengige Prozessverfahren darstellt, da als Mitunterzeichner desselben ein Staat mitgewirkt hat, dessen verantwortliches Organ an dem Angriffskrieg beteiligt ist, dessen Planung, Vorbereitung und Fuehrung einschliesslich der Mitwirkung an denselben nach dem fraglichen Vertrag zur Anlage steht.

Die Berechtigung, diese Prozesseinrede zu erheben und die Antraege zu stellen ergibt sich nun folgendes:

Die phantasievolle Anklageschrift des Falles VI sieht als Anklagepunkt I die Mitwirkung der Angeklagten an der Planung, Vorbereitung, am Beginn und an der Fuehrung von Angriffskriegen

- la -

und Einzelfaellen in andere Laender vor. Ihre Schuld wird damit in unmittelbaren Zusammenhang mit den entsprechenden Taten der im 1. Nuernberger Kriegsverbrecher-Prozess Angeklagten gestellt.

Gemaess den Feststellungen des 1. Nuernberger Urteils ent-

sprechen die Invasionen in den einzelnen Ländern einen Gesamtplan. Das Merkmal der Entfesselung von Angriffskriegen zerfällt äußerlich zeitlich in einen Angriff gegen Polen, Norwegen, Holland, Belgien, Frankreich, Jugoslawien und Russland. Rechtlich gesehen betrachtet die Anklage diese Ereignisse als Kette abrollender Ereignisse, die mit dem Angriff auf Polen am 1. September 1939 kausal bedingt aufeinander folgten.

Grundlage fuer die Strafverfolgung wegen Beteiligung an diesen Taten ist das Kontrollratsgesetz Nr. 10 vom 20. Dezember 1945.

Vorausgeschichte sei der Begründung, dass bei Prüfung der gestellten Anträge durch das Hohe Gericht im Zusammenhang mit dem Geheimen Zusatzprotokoll vom 23. August 1939 Beweise zur Stärkung des Verteidigungsvorbringens dafuer angeboten werden, dass

- a) bevollmächtigte russische Vertreter 1932 die Bildung einer Einheitsfront der deutschen antifaschistischen Parteien gegen die NSDAP. bei Besprechungen in der sowjetrussischen Botschaft in Berlin hintertrieben haben, um die NSDAP. an die Macht kommen zu lassen;
- b) die NSDAP. vor der Machtergreifung im Jahre 1933 von Moskau her finanziell unterstützt wurde;
- c) die NSDAP. weiterhin von moskautreuen Elementen durchgesetzt wurde.

Bezüglich der formellen Seite gestatte ich mir ausserdem vorsorglich darauf hinzuweisen, dass Artikel 2 c der Verordnung der Militärrégierung Nr. 7 ueber Verfassung und Zuständigkeit gewisser Militärgerichte vom 18. Oktober 1946 die gestellten Anträge nicht ausschliesst.

Die genannte Vorschrift bestimmt:

"Weder die Gerichte noch deren Mitglieder oder stellvertretende Mitglieder koennen von der Anklagebehoerde, den Angeklagten oder deren Verteidigung abgelehnt werden".

Artikel 2 a der Verordnung Nr. 7 fasst zwei Gesichtspunkte zusammen, die nach deutschem Strafverfahrensrecht in der Regel getrennt behandelt werden; Die Ablehnung von Richtern und die Geltendmachung von Verfahrenseinreden.

Die Verordnung Nr. 7 ermächtigt, eine derartige Beschränkung prozessualer Rechte der Angeklagten zu bestimmen. Im vorliegenden Falle handelt es sich aber nicht um die Geltendmachung derartiger Prozessrügen. Eine Ablehnung einzelner Richter oder des ganzen Gerichtes (letzteres ist auch nach normalen deutschen Strafprozessrecht zulässig) ist hier keineswegs beabsichtigt. Auch wende ich mich nicht gegen die prozessuale Zuständigkeit des Gerichtes. Die Einwände bewegen sich vielmehr in einer anderen Richtung, u. zw. in einer solchen, die von Artikel 2 e der Verordnung Nr. 7 weder ausgeschlossen werden soll noch ausgeschlossen werden kann.

Ich werfe die Frage auf, ob das Verfahren angesichts der völkerrechtlichen Entstehungsgeschichte der Normen ueber die Bestrafung der Kriegsverbrecher ueberhaupt zulässig ist. Es wird mithin nicht die bloesse sachliche oder oertliche Zuständigkeit des Gerichtes als solche in Zweifel gezogen, (dies waere nach Artikel 2 e der genannten Verordnung unbeachtlich) sondern es wird die grundsätzliche Frage gestellt, ob das gesamte System der zur Beurteilung der Kriegsverbrechen erlassenen materiellen und prozessrechtlichen Normen, angesichts ihres Zustandekommens ueberhaupt Anspruch auf Rechtsgeltung erheben kann. Eine solche Feststellung kann durch eine Bestimmung, wie sie in Artikel 2 e der Verordnung Nr. 7 enthalten ist, natuerlich nicht ausgeschlossen werden. Krass ausgedrueckt: es kann sich ein materiell oder formell unwirksames Gesetz nicht dadurch der Nachpruefung entziehen, dass es eine solche verbietet; vielmehr bleibt das Recht unter allen Umstaenden auch die Pflicht richterlicher Nachpruefung einer jeden Norm gegenueber

- 7a -

bestehen, wie später auszuführen sein wird.

Aus diesen Gründen steht die Vorschrift des Artikel 2 a der Verordnung Nr. 7 dem Antrag nicht entgegen.

Zur Begründung der Prozessanrede und der Anträge führe ich aus:

I.

Unmittelbare völkerrechtliche Grundlage der Verfolgung der deutschen Kriegsverbrecher ist die sogenannte Moskauer Deklaration vom 30. Oktober 1943. Wörtlich bezieht sich diese gemeinsame Erklärung zwar nur auf die

Kriegsverbrecher im engeren Sinne, d.h. auf die Urheber von Grausamkeiten, in den waehrend des Krieges durch die deutsche Wehrmacht besetzten Territorien; die in ihr niedergelegten Grundsätze haben aber allgemeine Bedeutung fuer die Verfolgung aller nach Artikel II des spaeteren Kontrollratsgesetzes Nr. 10 Schuldigen erreicht. Dies gilt insbesondere fuer den Grundsatz, dass die Verfolgung der am und im Krieg Schuldigen gemeinsame Angelegenheit der verbuendeten Hauptmaechte sein sollte. Auf Grund der Rahmenbestimmungen der Moskauer Deklaration erging dann nach Abschluss der Kampfhandlungen das Londoner Abkommen der vier Hauptmaechte vom 8.8.1945. durch welches die Bildung eines Gerichtshofes fuer die Aburteilung solcher Taten vereinbart wurde, fuer die ein regional bestimmter Tatort nicht vorlag. Diesem Abkommen wurde ein Statut beigelegt, welches die Zusammensetzung, die Zustaanlichkeit und das Verfahren des Internationalen Militaergerichtshofes regelte. Die Berechtigung zum Erlass eines solchen Statuts ist u.a. im Nuernberger Haupturteil vom 1.10.1948 eingehend begruendet worden: "Die Ausarbeitung des Statuts geschah in Ausuebung der souverannen Macht der Gesetzgebung jener Staaten, denen sich das deutsche Reich bedingungslos ergeben hatte, und das nicht angezweifelte Recht jener Laender, fuer die besetzten Gebiete Gesetze erlassen, ist von der zivilisierten Welt anerkannt worden. Das Statut ist keine willkuerliche Ausuebung der Macht seitens der siegreichen Nationen, sondern ist nach Ansicht des Gerichtes, wie noch gezeigt werden wird, der Ausdruck des zur Zeit der Schaffung des Statuts bestehenden Voelkerrechts; insoweit ist das Statut selbst ein Beitrag zum Voelkerrecht".

Sowohl aus der Tatsache, dass die verbündeten Hauptmächte, vertreten durch ihre völkerrechtlich handlungsbefugten Organe, dieses Statut als integrierenden Bestandteil des Londoner Abkommens vom 8.8.1945 erliessen, als auch aus der Charakterisierung des Statuts durch das Urteil des Internationalen Militärgerichtshofes folgt zwingend, dass dieses Statut selbst als völkerrechtlicher Vertrag zwischen den beteiligten Hauptmächten zu betrachten ist. Dieses Ergebnis ist wohl auch von keiner Seite angezweifelt worden. Immerhin ist es von Wichtigkeit, auf diese Rechtsnatur des Statuts besonders hinzuweisen.

Formellrechtlich gesehen, ist die Verfolgung der weiteren Kriegsverbrecherprozesse nicht mehr auf Grund des Statuts von 8.8.45 durchgeführt worden, sondern auf Grund von Normen, die quellen- und rangmässig von diesen verschieden sind. Der Kontrollrat erliess am 20. Dezember 1945 das bekannte Gesetz Nr. 10, welches das materielle Strafrecht und die allgemeinen Grundsätze des Verfahrensrechts fuer diejenigen in Aussicht genommenen Kriegsverbrecherprozesse enthielt, die nicht fuer eine Verhandlung vor dem Internationalen Militärgerichtshof in Aussicht genommen worden waren. Es fragt sich daher, welche Rechtsnatur, quellen- und geltungsmässig dieser als "Gesetz Nr. 10" bezeichneten Norm zuzuerkennen ist. Nach unserer Ansicht ist das Kontrollratgesetz Nr. 10 formell als ein von der internationalen Occupationsgewalt mit Wirkung fuer das besetzte Deutschland erlassenes Gesetz, materiell dagegen als ein völkerrechtlicher Vertrag, v.zw. als ein sogenanntes Aufhebungs- oder Durchführungsabkommen zum Londoner Protokoll von 8.8. 1945 zu bezeichnen. Die Möglichkeit und Notwendigkeit, der gleichen Rechtsnorm sowohl Vertrag als auch Gesetzescharakter beizulegen, ist in der Rechtspraxis keine Anomalie, sondern eine durchaus übliche und häufige Erscheinung.

Diese Doppelnatur der fraglichen Normen folgt aus der eigenartigen dualistischen Stellung, die dem Kontrollrat durch die Besatzungsregime einvernommt ist:

- a) Der Kontrollrat übt die Souveränität "in Deutschland" aus. Er ist fuer das deutsche Rechtsgebiet der höchste Gesetzgeber, auf dem ihm vorbehaltenen Gebieten auch grundsätzlich der einzige Gesetzgeber. Er ist durch die totale Kapitulation von 5. Juli 1945 und das Potsdamer Abkommen an Stelle des bisherigen Reichsgesetzgebers getreten. Die von ihm mit Wirkung fuer das deutsche Reichsgebiet erlassenen Normen haben daher den Charakter von deutschen Gesetzen.
- b) Der Kontrollrat ist aber auch gleichzeitig ein völkerrechtlich internationaler Organ. Ob man die von ihm vertretene Staatengemeinschaft - die 4 alliierten Hauptmächte - als Staatenbund, als völkerrechtlichen

Zweckverband, als Kondominialverband oder sonstige bezeichnet, ist gleichgültig. Entscheidend ist nur, dass der Kontrollrat in Rahmen der ihm durch die genannten Abkommen übertragenen Zuständigkeiten gleichzeitig als Organ der 4

Hauptrechte fungiert. Seine Zuständigkeiten sind zwar beschränkt, auch steht der Kontrollrat seinerseits unter der unmittelbaren Aufsicht der Jasseministertkonferenz, doch bleibt die Tatsache, dass der Kontrollrat gleichzeitig auch ein interalliiertes völkerrechtliches Organ einer Staatengemeinschaft ist, von diesen Beschränkungen unberührt. Hieraus folgt, dass das Kontrollratgesetz Nr. 10 primär ein völkerrechtliches Abkommen darstellt, dass es aber auch gleichzeitig ein für Deutschland wirksames "internes" Gesetz ist. Als Vertrag ist das Gesetz Nr. 10 - unbeschadet seiner formellen Inkraftsetzung und Publikation als intern geltendes Gesetz - der Beurteilung unterworfen, die für Zustandekommen, Wirksamkeit und Reichweite eines jeden völkerrechtlichen Abkommens zu gelten hat. Insbesondere müssen die vom allgemeinen Völkerrecht anerkannten Grundgesetze über Nichtigkeit, Unwirksamkeit oder konkrete Unanwendbarkeit von Verträgen auch für das Kontrollratgesetz Nr. 10 gelten.

Andero zu beurteilen, ist die Rechtsnatur der Verordnung Nr. 7 der Militärregierung, betr. Verfassung und Zuständigkeit gewisser Militärgerichte von 18. Oktober 1946. Nach Artikel II der Verordnung erging dieselbe auf Grund der Befugnisse des Militärgouverneurs der amerikanischen Besatzungszone Deutschlands, sowie auf Grund der Befugnisse, die dem Zonenbefehlshaber durch das Kontrollratgesetz Nr. 10 und die Artikel 10 bis 11 des Statutes der Internationalen Militärgerichtshofes (Anlage zum Londoner Protokoll von 8.8.1945) übertragen worden sind. Zwar hat in bestimmten Umfang auch der Militärgouverneur der jeweiligen Besatzungszone eine Doppelstellung; er ist in Rahmen seiner Befugnisse oberster "interner Gesetzgeber" innerhalb der Zone, gleichzeitig aber auch ein mit beschränkten völkerrechtlichen Kompetenzen ausgestattetes Organ des Staates, dessen Hoheitsmacht die betreffende Zone besetzt hält. Doch spielt in vorliegenden Zusammenhang diese Doppelstellung keine Rolle; denn die Verordnung Nr. 7 ist - wie auch die üblichen Rechtsnormen des sogenannten "Zonenrechts" - von Militärgouverneur in seiner Eigenschaft als interner

Zwangsgesetzgeber, als Inhaber der höchsten gesetzgebenden Gewalt innerhalb der Zone, erlassen werden. Formell betrachtet, ist daher die Verordnung Nr. 7 keine völkerrechtliche, sondern nur eine innerrechtliche Norm.

Materiell von Standpunkt der Rechtsgeltung, wird aber auch sie nicht völlig vom Kontrollratsgesetz Nr. 10 gelöst werden können. Sie ist zur Ausübung eines völkerrechtlichen Vertrages - oben das Kontrollratsgesetz Nr. 8 - erlassen worden. Als Ausführungsbestimmung hat sie materiell keine Selbstständigkeit gegenüber der Norm, zu deren prozessualer Verwirklichung und Präzisierung sie erlassen wurde. Wenn etwa das Kontrollratsgesetz Nr. 10 der Aufhebung oder gänzlichen Abänderung verfallen wäre, so würde diese Verordnung Nr. 7 formell zwar hiervon nicht berührt werden, materiell wäre ihr aber die Anwendungsgrundlage entzogen. Dasselbe könnte unter Umständen für den Fall gelten, dass eine veränderte Rechtsauffassung die materielle Wirksamkeit des Kontrollratsgesetzes Nr. 10 ganz oder teilweise beseitigt, auch in diesem Falle würde die Verordnung Nr. 7 hiervon in Mitteilenshaft gezogen werden.

Als Ergebnis ist daher festzuhalten; Das Kontrollratsgesetz Nr. 10 ist nur in formeller Hinsicht ein internes Staatsgesetz; nach seiner Entstehung und Wirksamkeit, in materiellen Sinne also, ist es ein völkerrechtlicher Vertrag und unterliegt insbesondere bei Prüfung seiner effektiven Anwendbarkeit den für völkerrechtliche Verträge geltenden allgemeinen Regeln. Die Verordnung Nr. 7 ist eine internrechtliche Durchführungsbestimmung zu einem völkerrechtlichen Abkommen und daher, wenn auch formellrechtlich von diesem unabhängig, in ihrer materiellen Wirkung an die Wirksamkeit dieses Abkommens gebunden.

II.

Nach meiner Ansicht stellt das Londoner Protokoll vom 8.8.1945 mit allen zu seiner Ergänzung und Ausführung erlassenen Normen, völkerrechtlich gesehen, eine neue Rechtsinstitution, politisch gesehen, ein Experiment dar. Das Londoner Vertragswerk einschließlich seiner Ausführungsbestimmungen muss zu denjenigen Verträgen gerechnet werden, die infolge der Subtilität der in ihnen behandelnden Fragen nur dann auch in Zukunft Anspruch auf Rechtsgeltung und allgemeine Achtung erheben können.

nen, wenn diese Verträge selbst durch politisch loyale Partner in po-
litisch loyaler Weise zustandekommen sind. Ist dies der Fall, so wer-
den sich die in diesen Vertraginstrumenten orallich niedergelegten
und in Nürnberg orallich praktisch ange-

wertigen Grundsätze durchsetzen und fuer alle Zukunft Achtung geltend beanspruchen koennen; ist dies aber nicht der Fall, so wird ganz ohne Ruecksicht auf die Zahl der effektiven durchgefuehrten Prozesse und die Zahl der ausgesprochenen Verurteilungen das oeffentliche Gewissen eines Tages, fruher oder spaeter, sein negatives Urteil ueber diese Art von Verfahren bilden, und es wird unweigerlich die Zeit kommen, welche diese Art von Verfahren nicht als Fortbildung, sondern als Mißbrauch des Voelkerrechts, und die Durchfuehrung dieser Prozesse nicht mehr als eine allgemeinverbindliche Strafjustiz betrachtet.

Es ist daher zu pruefen, ob das Londoner Vertragwerk von 8.8.1945 mit seinen Durchfuhrungsbestimmungen der sachlichen Kritik stand zu halten vermag, welche das oeffentliche Gewissen an eine derart weitreichende und folgeschwere voelkerrechtliche Neuinstitution anzulegen berechtigt ist. Das materielle Strafrecht steht in diesem Antrag nicht zur Diskussion, ebensowenig das Verfahren als solches. In diesem Antrag wird geboten, zu pruefen, die voelkerrechtliche Haltbarkeit des Vertragwerkes mit Ruecksicht auf einen Teil seiner Urheber und deren eigenes voelkerrechtserhebliches Verhalten. Der Satz: "Niemand darf Richter in eigener Sache sein," ist fuer das nationale Strafrecht eine Selbstverstaendlichkeit. Es kommt in Schlagwort des "Judex inhabilis" zum Ausdruck: Der Richter ist von der Ausuebung seines Amtes ausgeschlossen, wenn er selbst durch die Straftat verletzt oder zum Verletzten in gewissen nahen Beziehungen steht. Ein anderer Grund fuer die Ausschliessung eines Richters wird in den Prozessrechtssystemen, weil absolut selbstverstaendlich, nicht erst genannt: Der Richter darf auch dann nicht als Richter taetig sein, wenn er der zur Aburteilung stehenden Tat als Tater oder Teilnehmer verdachtig ist.

Gegenueber dem nationalen Strafprozessrecht koennen die Grundsätze von "Judex inhabilis" in Voelkerrecht naturgemuess nur eine geringere Bedeutung beanspruchen. In internationalen Gerichten wird sich die

Mitwirkung solcher Staaten, die selbst durch die zur Anklage stehenden Handlungen unmittelbar oder mittelbar verletzt werden sind, nur in den seltensten Fällen verhindern lassen und gerade auf dieser "Inkompatibilität" beruhen ja die Bedenken, die in allen Ländern gegen die "Ausübung einer völkerrechtlichen Gerichts-

barkeit immer wieder geltend gemacht werden sind. Auf sie soll in diesem Zusammenhang nicht weiter eingegangen werden. Dagegen beanspruchen auch für das Völkerrecht und erst recht hier diejenigen Grundsätze Bedeutung, die für die Richteruntertänigkeit des Tatverpflichteten gelten. Der Mitschuldige an einem Kriegsverbrechen oder erst recht der Provokant eines solchen darf nicht als fachfremd betrachtet werden, im Verfahren gegen derartige Kriegsverbrechen als Richter mitzuwirken.

Es bedarf keiner besonderen Begründung, dass die hier entwickelten Grundsätze für das konkrete Verfahren nur indirekte Bedeutung beanspruchen. Der Staat, dem die Richter des konkreten Prozesses angehören, ist von Verdacht einer Mitschuld an der Entfesselung eines Angriffskrieges frei. Es geht hier vielmehr um Tieferes: Die gleichen Grundsätze, die für den Richter gelten, müssen auch für denjenigen gelten, der den Richter anweist und ihm die Normen für seine Entscheidung gibt. Ein internationaler, auf Bestrafung von Kriegsschuldigen gerichteter Vertrag, kann nur dann Achtung und Geltung beanspruchen, wenn seine sämtlichen Vertragspartner von Vorwurf derjenigen Straftaten frei sind, deren Aburteilung sie durch ein internationales Statut einen besonderen Gerichtshof überweisen. Wenn sich dagegen einer der Vertragstaaten selbst ausserhalb des Völkerrechts gestellt hat, indem er an Verbrechen, die den Gegenstand der Anklage bilden, beteiligt ist, so ist die Gerichtshoheit des Tribunals ganz ohne Rücksicht darauf, welche der Siegernationen die Richter stellt, mit einem nicht behabbaren Fehler behaftet. Allgemein rechtsoltungsmässig gesehen, kann eine solche Verfahrensordnung keinen "Beitrag zur Fortentwicklung des Völkerrechts" darstellen; denn einen auf diese Weise zustandekommenden Vertrag fehlt von vornherein diejenige Autorität vor der "Conscience Publique", die eine solche völkerrechtliche Neuschöpfung haben muss, wenn sie sich durchsetzen soll. Die Mitwirkung

barkeit ihrer wieder geltend gemacht worden sind. Auf sie soll in diesem Zusammenhang nicht weiter eingegangen werden. Dagegen beanspruchen auch für das Völkerrecht und erst recht hier diejenigen Grundsätze Bedeutung, die für die Richterunterschiedlichkeit des Täterverhältnisses gelten. Der Mitschuldige an einem Kriegsverbrechen oder erst recht der Provokant eines solchen darf nicht als fachig betrachtet werden, im Verfahren gegen dergleichen Kriegsverbrechen als Richter mitzuwirken.

Es bedarf keiner besonderen Begründung, dass die hier entwickelten Grundsätze für das konkrete Verfahren nur indirekte Bedeutung beanspruchen. Der Staat, dem die Richter des konkreten Prozesses angehören, ist von Vorwissen einer Mitschuld an der Entfesselung eines Angriffskrieges frei. Es geht hier vielmehr um Tiefere: Die gleichen Grundsätze, die für den Richter gelten, müssen auch für denjenigen gelten, der den Richter anweist und ihm die Normen für seine Entscheidung gibt. Ein internationaler, auf Bestrafung von Kriegsschuldigen gerichteter Vertrag, kann nur dann Achtung und Geltung beanspruchen, wenn seine sämtlichen Vertragspartner von Vorwissen derjenigen Straftaten frei sind, deren Aburteilung sie durch ein internationales Statut einem besonderen Gerichtshof überweisen. Wenn sich dagegen einer der Vertragstaaten selbst ausserhalb des Völkerrechts gestellt hat, indem er an Verbrechen, die den Gegenstand der Anklage bilden, beteiligt ist, so ist die Gerichtshoheit des Tribunals ganz ohne Rücksicht darauf, welche der Siegernationen die Richter stellt, mit einem nicht behabbaren Fehler behaftet. Allgemein rechtsaltungsmässig gesehen, kann eine solche Verfahrenseröffnung keinen "Beitrag zur Fortentwicklung des Völkerrechts" darstellen; denn einen auf diese Weise zustandekommenden Vertrag fehlt von vornherein diejenige Autorität vor der "Conscience Publique", die eine solche völkerrechtliche Neuschöpfung haben muss, wenn sie sich durchsetzen soll. Die Mitwirkung

eines illoyalen Partners vernichtet die Autorität eines solchen
Abkommens und ist geeignet, nach der Mitwirkung der nicht belasteten
Partner in ein Licht zu stellen, welches den Geltungsanspruch des
internationalen Abkommens abträglich ist. Völkerrechtlich betrach-

tet, steht der Geltung eines derartigen Vertrages ein Unwirk-
sankheitsgrund entgegen.

An dieser Stelle genuegt zunaechst die Feststellung, dass un-
ter bestimmten Voraussetzungen eine gegen das gesamte Verhalten
eines der Vertragspartner begruendete "exceptio ex persona"
die Unwirksamkeit des gesamten Vertragswerkes begruenden kann.
Daher sind zunaechst die Gruende zu untersuchen, deren Beja-
hung nach unserer Ansicht dazu fuehren muss, die Qualitaet der
Sowjetunion als eines tauglichen Vertragspartners fuer das Ab-
kommen von 8.8.1945 zu verneinen.

III.

Im vorliegenden Zusammenhang mag es dahingestellt bleiben, in-
wieweit die Sowjetunion durch das System der sogenannten
Kriegsaechtungspakte sich gebunden haelt. Bekannt ist, dass
sie am 25. Juli 1932 einen Nichtangriffs- und Neutralitaets-
vertrag mit der polnischen Republik abgeschlossen hatte. Dies-
ses Abkommen, das beiderseits ratifiziert worden ist, war zur-
zeit der Zuspitzung der deutsch-polnischen Beziehungen im
Jahre 1939 beiderseits unbestritten in Kraft. Seinen Inhalt
nach entsprach dieser Pakt im wesentlichen den uebrigen Ver-
traegen, welche die Sowjetunion mit den Randstaaten abge-
schlossen hatte und deren gemeinsames Merkmal darin liegt,
dass die Sowjetunion unter Vermeidung einer kollektiven Ein-
beziehung der uebrigen Anlieger die Rechte und Pflichten der
Partner stets nur in zweiseitigen Vertraegen zusammenfasste,
um hierdurch eine etwaige Blockbildung zwischen den Randstaa-
ten untereinander nach Moeglichkeit auszuschliessen.

Im einzelnen enthielt der Pakt vom 25. Juli 1932 die folgenden
gegenseitigen Verpflichtungen:

- a) eine Nichtangriffsverpflichtung;
- b) eine Neutralitaetsverpflichtung;
- c) eine Schiedsgerichtsklausel;

342
53
d) eine Klausel, betreffend Verbot der Teilnahme an allen gegen den Vertragspartner gerichteten Abkommen.

Dieses Abkommen war, wie ausgeführt, beiderseits ungekündigt und in Kraft, als es zu den historischen Verhandlungen zwischen Ribben-

trop und Stalin in Moskau am 23.8.1939 kam. Das dort erzielte Uebereinkommen fand seinen Ausdruck in zwei sofort in Kraft tretenden Abkommen:

den sogenannten Nichtangriffspakt vom 23.8.1939, dessen Inhalt der Weltöffentlichkeit alsbald bekanntgegeben wurde, und den "Geheimen Zusatzprotokoll zum Nichtangriffspakt" vom gleichen Tage, welches seiner Aufgabe entsprechend, gemäss Artikel 4, von beiden Seiten streng geheim zu behandeln war." Das Geheime Zusatzprotokoll ist im ersten Nuernberger Prozess nicht zum Gegenstand der Verhandlung gemacht worden. Sein Text ist von dem amerikanischen Aklagevertreter Thomas I. Dodd im Laufe des Prozesses dem Korrespondenten der "Saint Louis Post Dispatched", Richard L. Stokes, uebergeben worden und ist von diesem in der genannten Zeitung am 22. Mai 1946 veroeffentlicht worden.

Die Nichtzulassung des Textes des Geheimprotokolls im 1. Prozess beruhte darauf, dass nach Auffassung des Gerichtes die Herkunft des Dokumentes nicht mit gemuegender Sicherheit aufzuklaeren war. Diese Situation hat sich jedoch seit dem ersten Nuernberger Prozess geaendert. Trotzdem seit der ersten Publikation des Geheimprotokolls mehr als 1½ Jahre vergangen sind, und obwohl das Internationale Militaergericht das Bestehen eines solchen Protokolls nicht in Zweifel zog, ist ein Denont seitens der Sowjetregierung nicht erfolgt. Einzelheiten der Verhandlungen ueber das Geheimprotokoll und dessen Uebereinstimmung mit dem inzwischen veroeffentlichen Text sind ferner durch die Aussagen von Dr. Fr. Gauss im Internationalen Nuernberger Prozess vom 15. Maers 1946 belegt worden. Unter diesen Umstaenden besteht weder Anlass noch Moeglichkeit, das Bestehen des Geheimprotokolls, und zwar in seiner mitgeteilten Fassung, in Zweifel zu ziehen: dies umsoweniger, als die durch

den ersten Prozess gewonnenen Praejudizien in keiner Weise erschuettert werden; die Schuld vor Organen des Deutschen Reichs an Angriffskriege gegen Polen, die in ersten Nuernberger Prozess festgestellt worden ist, wird durch das Bestehen des Geheimabkommens nicht beseitigt; eine Unschuld oder auch nur eine Nichtmitwirkung der verantwortlichen Organe der Sowjetunion ist aber durch das erste Nuernberger Urteil nicht praedjudiziert worden. Dieser Beweis kann daher nicht ausgeschlossen werden.

Das Geheime Zusatzprotokoll zum Nichtangriffspakt lautet wie folgt:

"Aus Anlass der Unterzeichnung des Nichtangriffspaktes zwischen dem Deutschen Reich und der Union der sozialistischen Sowjetrepubliken haben die unterzeichneten Bevollmächtigten der beiden Teile in streng vertraulicher Aussprache die Frage der Abgrenzung der beiderseitigen Interessensphären in Osteuropa erörtert. Die Aussprache hat zu folgendem Ergebnis geführt:

- 1.) Für den Fall einer territorial-politischen Umgestaltung in den zu den baltischen Staaten (Finnland, Estland, Lettland und Litauen) gehörenden Gebieten bildet die nördliche Grenze Litauens zugleich die Grenze der Interessensphäre Deutschlands und der UdSSR. Hierbei wird das Interesse Litauens auf Wilnaer Gebiet beiderseits anerkannt.
- 2.) Für den Fall einer territorial-politischen Umgestaltung der zum polnischen Staat gehörenden Gebiete werden die Interessensphären Deutschlands und der UdSSR ungefähr durch die Linie der Flüsse Pissa, Narew, Weichsel und San abgegrenzt. Die Frage, ob die beiderseitigen Interessen die Erhaltung eines unabhängigen polnischen Staates erwünscht sein lassen und wie dieser Staat abzugrenzen wäre, kann endgültig erst im Laufe der weiteren politischen Entwicklung geklärt werden. In jedem Fall werden beide Regierungen diese Frage im Wege einer freundschaftlichen Verständigung lösen.
- 3.) Hinsichtlich des Südostens Europas wird von sowjetischer Seite das Interesse an Bessarabien betont. Von deutscher Seite wird das völlige politische Desinteressement an diesem Gebiet erklärt.
- 4.) Dieses Protokoll wird von beiden Seiten streng geheim behandelt werden.

Moskau, den 23.8.1939

Fuer die Deutsche Reichsregierung: v. Ribbentrop

Fuer die Regierung der UdSSR: W. Molotow."

Die Deutlichkeit der in diesen Pakt beiderseits erstrebten Ziele, die, mindestens was Finnland - nach der britisch-franzoesischen Garantie -, vor allem Polen anbetrifft, nach Lage der Dinge nur durch bewaffnete Aggression zu erreichen waren, spricht trotz der nur in Eventualitaeten

Moskau, den 23.8.1939

Fuer die Deutsche Reichsregierung: v. Ribbentrop
Fuer die Regierung der UdSSR: W. Molotow."

Die Deutlichkeit der in diesem Pakt beiderseits erstrebten
Ziele, die, mindestens was Finnland - nach der britisch-fran-
zoesischen Garantie -, vor allem Polen anbetrifft, nach Lage
der Dinge nur durch bewaffnete Aggression zu erreichen waren,
spricht trotz der nur in Eventualitaeten

ausgedruckten Formulierung eine genügend deutliche Sprache. Trotzdem soll noch zur Unterstreichung des Charakters dieses Abkommens, welches den eigentlichen Kernpunkt der Abmachungen darstellt und den "Nichtangriffspakt" fast zur Fassade degradierte, noch beglaubigtes Material mitgeteilt werden, das von den an diesen Verhandlungen Mitwirkenden ueberliefert worden ist.

Nach der Aussage Ribbentrops im ersten Nuernberger Prozess sind zwischen ihm und Stalin die Moeglichkeiten einer friedlichen Beilegung des deutsch-polnischen Konfliktes ueberhaupt nicht in die Diskussion einbezogen worden; vielmehr erklarte Stalin, dass die Verhandlungen als gescheitert betrachtet werden muessen, wenn die UdSSR nicht die Haelfte Polens, Litauens und den Hafen Libau zugesprochen erhalten wuerde. Im wesentlichen uebereinstimmend, aber sehr viel eingehender ist die eidesstattliche Versicherung von Dr. Fr. Gauss, des Leiters der Rechtsabteilung des Auswaertigen Amtes. Nach dessen Bekundungen hat Ribbentrop bei der Verhandlung mit Stalin am 23. August 1939 den Angriff gegen Polen zwar noch nicht als endgueltig beschlossene Sache, aber doch - deutlich genug im diplomatischen Verkehr - als naheliegende Moeglichkeit hingestellt; die sowjetischen Vertreter nahmen diese Aeußerung zur Kenntnis und gingen in Anschluss daran auf die Regelung der sich aus diesem "Eventualfall" ergebenden territorialen Fragen ein.

Politisch betrachtet, laesst sich der Inhalt des Geheimen Abkommens auf eine relativ einfache Formel bringen:

Dass der deutsche Angriffskrieg gegen Polen erst durch die russische Haltung ermoeeglicht wurde, war allen Beteiligten klar. Aus der - im Falle einer russischen Absage keineswegs "naheliegenden", sondern praktisch voellig unmoeglichen, jedenfalls aber hoechst unwahrscheinlichen - "Eventualitaet"

eines deutschen Angriffs gegen Polen wurde durch das sowjetische Einverständnis die absolute Sicherheit des bevorstehenden deutschen Angriffes. Darüber, dass es dynamisch geschah, nicht Deutschland, sondern die Sowjetunion war, welche die Aggression gegen Polen auslöste, lässt die Haltung des Krenl in jenen schicksalsschweren Stunden keinen Zweifel: Der Beuteanteil, der mit Ostpolen, dem gesamten Baltikum, der freien Hand gegen Finn-

land und Rumänien, den gunstigstenfalls denkbaren Gewinn des eigentlichen "Aggressors" bei weitem uebersteigt, ist der sinnfaellige Ausdruck der ausschlaggebenden Rolle, welche die Sowjetunion bei Entstehung des europaischen Krieges spielte. Soviel von Politischen. Voelkerrechtlich betrachtet, stellt das Verhalten der Organe der UdSSR mindestens gegenueber Polen einen Bruch des Vertrages von 25. Juli 1932 dar; in diesem Vertrag hatte sich die Sowjetunion verpflichtet, an keinen Abkommen teilzunehmen, welches gegen den anderen Vertragspartner gerichtet war. Nun laesst sich wohl kaum eine schaeferere Form eines "gegen" einen anderen Staat gerichteten Abkommens denken, als diejenige, welche die militaerische Vernichtung und Zerstueckelung des Partners vorbereitet und ermoeeglicht. Und es ist weiterhin schwer, sich eine krassere Form eines "Beitrittes" oder einer "Teilnahme" an einem solchen Vertrag auszudenken als die von der UdSSR gewaehlte; denn es liegt, politisch gesehen, ein nur auf die UdSSR und das Deutsche Reich beschaenkter Teilungsvertrag vor, der durch Waffengewalt ermoeeglicht wurde. Die Tatsache, dass beide Staaten, Deutschland und die UdSSR, die Moeglichkeit einer Aufrechterhaltung eines territorial verkleinerten Polens "erwogen" oder "zu erwagen bereit" waren, faellt gegenueber der eindeutigen Ziehung der Interessengrenzen ebensowenig ins Gewicht wie die Tatsache, dass der entscheidende Waffengang von der Deutschen Wehrmacht ausgefochten werden sollte, waehrend die Sowjetunion sich zu-naechst im Hintergrund hielt.

Der Umstand, dass der sowjetische Einmarsch in das polnische Gebiet mit dem "Zerfall" bzw. dem "Aufhoeren" des polnischen Staates begruetet wurde, welches nach Auffassung der Sowjetunion das Ende der polnischen Souveraenitaet und damit das Erloeschen der sowjetischen Nichtangriffsverpflichtungen aus dem Pakt von 25. Juli 1932 nach sich zog, geht an der Sache

vorbei und kann nur als Vorwand gewertet werden. Denn zu diesen Zeitpunkt war eine Debellatio Polens selbst nach der Auffassung des Deutschen Reichs noch nicht eingetreten und die deutschen militärischen wie politischen Stellen waren durch den vorfruehten Einmarsch der sowjetischen Truppen in das polnische Ostgebiet selbst ueberrascht. Darauf kommt es indes nicht einmal an. Denn der Bruch des sowjetisch-polnischen Vertrages vom 25. Juli 1932 erfolgte ja nicht

erst am 14.9.1939, am Tage des Einmarsches, sondern schon durch den Abschluss des Geheimabkommens am 23. August.

Das Vorgehen der Sowjetunion bedeutet nicht nur ein völkerrechtliches Delikt gegen Polen, sondern eine Verletzung des Weltfriedens überhaupt und damit ein völkerrechtliches Delikt gegenüber der Völkerrechtsgemeinschaft schlechthin. Von ihren regionalen Nichtangriffs- und Neutralitätsverträgen abgesehen, war die Sowjetunion als Unterzeichnerin auch an die Bestimmungen des Kellogg-Paktes gebunden, den sie in ihrem diplomatischen Verkehr dadurch ein besonderes Gewicht zu geben suchte, dass sie viele der von ihr nach dem Inkrafttreten des Kellogg-Paktes mit den Randstaaten geschlossenen Nichtangriffsverträge als zur "Erstreckung" zur "Ausweitung" der Ideen des Kellogg-Paktes geschlossen bezeichnete; es nimmt auch der sowjetisch-polnische Nichtangriffsvertrag auf den Kellogg-Pakt ausdrücklich Bezug. Eine gleiche Pflicht zur Friedenssicherung oblag der UdSSR in ihrer Eigenschaft als Mitglied des Völkerbundes seit 1934.

Diesen Abschnitt abschliessend, darf ich auf die Erklärung Daladiers in seiner Rede vom 15. Juli 1946 vor der konstituierenden Versammlung Frankreichs hinweisen, in der er erklärte: "Die Sowjetunion führte nebeneinander zwei Verhandlungen: Eine geheime und eine fast öffentliche. Der Entschluss Russlands ist, wie auch Leon Blum glaubt, seit dem April gefasst gewesen."

Noch eingehender aussert sich hierzu Sir Neville Henderson in seinen Erinnerungen "Failure of a Mission":

"Es ist zu erhoffen, dass einiges Licht auf die Frage fallen wird, ob Stalin von Anfang an mit Hitler im heimlichen Einverständnis darüber gestanden hat, dass er seine Verhandlungen mit uns so lange hinziehen soll, bis Deutschland zum Losschlagen gerüstet wäre, oder ob sowohl Deutschland als auch wir selbst lediglich seine Werkzeuge bildeten. Ich persönlich neige zu der zweiten Auffassung, aber es ist eine blosse Vermutung; auch ich bin voreingenommen. Von Anfang an sah ich in den russischen Verhandlungen etwas, das versucht werden musste, dem aber jeder Wirklichkeitssinn abging. Ich glaubte niemals an irgend eine wirkungsvolle oder altruistische Hilfe der Russen fuer die Polen. Andernfalls

hoffte ich, dass, wenn die Sowjetunion - und sei es auf noch so laue Art - der Friedensfront beitrifft, Hitler Besonnenheit als ratsam erachten und sich fuer eine friedfertige Diskussion entscheiden wuerde. Aber immer wieder war ich der Ansicht, dass das Moskauer Hauptziel darin bestehe, Deutschland und die Westmaechte in gemeinsames Verderben zu verstricken, und aus dem Streit der beiden als "tertius gaudens" hervorzugehen.

IV.

Das oben praezipierte Verhalten der massgebenden voelkerrechtlichen Organe der Sowjetunion erfuellt nicht nur die Voraussetzungen des von Voelkerrecht seit langem anerkannten sogenannten Voelkerrechtsdeliktes. Darueber hinaus liegt auch einer der voelkerrechtlichen Straftatbestaende vor, wie sie das Londoner Statut vom 8. August 1945 vorgesehen hat.

Nach dem Stand des durch das Londoner Statut geschaffenen "neuen Voelkerrechts" stehen nur die Kriegsverbrechen der Unterlegenen zur Aburteilung, waehrend sich die internationale Strafhoheit auf die Siegerstaaten, ihre Organe und handelnden Menschen nicht erstreckt. Juristisch gesehen, kann darin aber nur eine prozessuale Exention gesehen werden, die aus voelkerrechtlichen oder politischen, in diesem Zusammenhang jedenfalls nicht zu untersuchenden Gruenden eine prozessuale Haftbarmachung der Siegerstaaten oder ihrer Angehoerigen ausschliesst. Waere es anders, so koennte die Nichtverfolgung von Angehoerigen der Siegerstaaten nur auf die Behauptung gegruendet werden, dass kein voelkerrechtliches Organ und kein Kombattant irgend eines der gegen die Achsenmaechte verbuendeten Staates

während der ganzen Kriegsdauer jemals ein Verbrechen
im Sinne des Londoner Statuts begangen habe. Eine sol-
che Behauptung wird ernstlich von niemanden aufgestellt.

Ihre Nichtbefolgung mag auf politische, vielleicht auch volkerrechtliche, ausserstenfalls auch prozessuale Gruende zurueckgefuehrt werden - dadurch bleibt aber die Tatsache unberuehrt, dass materiell-strafrechtlich der Tatbestand dieser Delikte wiederholt verwirklicht worden ist. Die konkrete Unverfolgbarkeit dieser von der Gegenseite begangenen Delikte darf nicht dazu fuehren, die Existenz dieser Verbrechen dort zu leugnen, wo sich andere Rechtsfolgen als die einer konkreten Verfolgbarkeit daran knuepfen. Das materielle Strafrecht aller Kulturstaaen bietet genuegend Beweise fuer die Richtigkeit der hier vertretenen Auffassung. Der Gehilfe oder Anstifter einer Straftat wird auch dann strafrechtlich verfolgt, wenn der Haupttaeter, etwa wegen Flucht ins Ausland, nicht erreichbar ist. Der Muehler wird bestraft, auch wenn sich der Dieb wegen Selbstmordes der Verfolgung entzogen hat. Diese Grundsuetze haben auch fuer das vorliegende Verfahren zu gelten. Ebenso wie vielfach die Handlung eines Mittaeters oder Teilnehmers an einer Straftat nicht abschliessend beurteilt werden kann, wenn nicht gleichzeitig der Charakter der Mitwirkung eines an sich oexenten Mitwirkenden geklaert ist, ebenso ist im vorliegenden Falle die Zulassung des Gerichtsverfahrens von der Feststellung abhaengig, ob nicht Beteiligte, die aus politischen oder volkerrechtlichen Gruenden von der Strafverfolgung verschont geblieben sind, selbst einen der Tatbestaende des Statuts verwirklicht haben. Das 1. Nuernberger Urteil hat in seinem Verfahren durch Zurueckweisung entsprechender Beweisentraege diese - in vielen Faellen die einzig durchgreifende Verteidigung zwar ausgeschlossen. Da aber diese Auffassung durch die Urteilsgruende nicht prejudiziert

worden ist, besteht - von ihrer Notwendigkeit ganz abgesehen - die rechtliche Möglichkeit, diese im Rahmen des Prozesses entscheidende Frage erneut zu stellen.

Nach unserer Auffassung erfüllt das Verhalten der verantwortlichen völkerrechtlichen Organe der Sowjetunion im August 1939 einen Tatbestand im Rahmen des Londoner Statuts. Durch ihr Verhalten ist der Krieg erst ermöglicht und ausgelöst worden, und zwar nicht nur der "isolierte" Krieg gegen Polen, sondern der Krieg der Jahre 1939 bis 1945 schlechthin. Dass die Entfesselung des Krieges gegen Polen nach der gegebenen Gruppierung und den bestehenden Garantiebildungen zum allgemeinen Weltkrieg führen musste, spricht auch die Begründung des Nürnberger 1. Urteils selbst unmissverständlich aus: "Der Gerichtshof hat sich davon überzeugt, dass der von Deutschland am 1. September 1939 gegen Polen begonnene Krieg ganz offensichtlich ein Angriffskrieg war, der sich folgerichtig zu einem die ganze Welt unspan-

nenden Krieg entwickeln musste und der die Begehung ungezügelter Verbrechen gegen die Gesetze und Gewohnheiten des Krieges sowie gegen die Menschlichkeit zur Folge hatte." Im einzelnen lässt die vorangegangene Sachdarstellung keinen Zweifel bestehen, dass fuer die verantwortlichen Organe der Sowjetunion durch den Abschluss des geheimen Abkommens mit dem Deutschen Reich sowohl als Partner als auch als Teilnehmer ein Tatbestand gegeben ist, was ihn das Londoner Statut bzw. Art. II, Ziffer 1a des Kontrollratsgesetzes Nr. 10 bestimmt. Die Tatsache, dass die Invasion von deutscher Seite ausging lässt die tatbestandsmassige Haftung der Sowjetunion unberührt, denn deren Tatbeitrag lag schon in Abschluss des den Krieg unmittelbar auslösenden Geheimabkommens. Die Kausalitätskette ist hier lückenlos. Das sowjetische Einverständnis war die *condicio sine qua non* des Angriffskrieges. Als festgestellt muss auch gelten, dass die verantwortlichen diplomatischen Organe der Sowjetunion beim Abschluss des Geheimabkommens vorsätzlich gehandelt haben. Sie haben gewusst, dass die von ihnen gewährte Aueckendeckung den Angriff erleichterte und haben eben mit Rücksicht darauf den Vertrag geschlossen. Die Zerstückelung Polens war sogar das einzige mit diesem Schritt beabsichtigte Ergebnis. Das kollusive Zusammenwirken beider Vertragspartner begründet auch den Tatbestand der gemeinsamen Planung bzw. Verschwörung nach dem Statut.

Ob ein einzelner Verantwortlicher oder ein Staat, welcher einen Tatbestand nach dem Londoner Statut bzw. dem Kontrollratsgesetz erfüllt, durch die gleiche Handlung noch als Teilnehmer haftbar gemacht werden kann, ist durch die Präjudizien des Nuernberger Urteils nicht end-

gültig geklärt worden. Versorglich ist in jedem Falle darauf hinzuweisen, dass die Verantwortlichkeit der Sowjetunion am Kriegsausbruch auch dann bestehen bleibt, wenn man sie bzw. ihre handelnden Organe nicht selbst als Täter betrachtet. Nach dem Londoner Statut und Art. II, Z. 2 des Kontrollratsgesetzes Nr. 10 hatten für die Verwirklichung der genannten Tatbestände nicht nur der eigentliche Täter, sondern auch der Gehilfe, der bei der Begehung der Tat mitgewirkt hat, oder wer sie befohlen oder angestiftet hat, oder wer mit seiner Planung oder Ausführung im Zusammenhang gestanden hat. Das Vorliegende der meisten hier genannten Teilnahmemodalitäten steht außer Zweifel. Es ist insbesondere auf Grund des gegebenen Sachverhaltes nicht mehr umstritten, dass die Sowjetunion - sogar wenn sie den Angriffskrieg gegen Polen nicht verursacht haben sollte - sie ihm jedenfalls als Gehilfe vorsätzlich gefördert hat.

Es muss als festgestellt erachtet werden, dass die verantwortlichen Organe der Sowjetunion die bezeichneten Straftatbestände in objektiver und subjektiver Hinsicht

erfüllt haben. Das Vorliegen dieser Tatbestände wird aber auch nicht dadurch beseitigt, dass nach den Feststellungen des 1. Nuernberger Urteils die Aggression von Seiten des Deutschen Reiches ausging. Es ist im Strafrecht aller Kulturstaaten allgemein anerkanntes Gesetz, dass in Strafrecht persönliche Haftung besteht und dass eine sogenannte Culpakompensation nicht zulässig ist. Jeder an einem strafrechtlichen Tatbestand Mitwirkende haftet nach dem Masse seiner eigenen persönlichen Schuld, ohne dass es auf die Schuld oder gar Strafbarkeit der anderen Beteiligten ankommt. Die im 1. Nuernberger Prozess getroffene Feststellung, Deutschland sei Aggressor und daher schuld am Kriege, steht den hier gewonnenen Ermittlungen und ihrer prozessualen Auswertung nicht entgegen. Die Tatsache, dass die Aggression von einem bestimmten Staat ausging, schliesst die weitergehende Feststellung fuer diese Aggression, die durch das voelkerrechtswidrige Verhalten eines anderen Staates ermöglicht bzw. ausgeloeet worden ist, in keiner Weise aus.

V.

Eine Strafverfolgung der nach dem Statut existenten Organe des mitschuldigen Staates kann zwar nicht erfolgen. Wohl aber kann und muss deren tatbestandsmässiges Verhalten herangezogen werden, um bestimmte, fuer den vorliegenden Prozess rechtsuerhebliche Folgen zu gewinnen. Das Gericht wird zu pruefen haben, wie weit unter diesen Umstaenden ein etwaiges Praejudiz aus dem 1. Nuernberger Prozess, welches die Nichtaufroellung des Schuldkontos der Sowjetunion aus dem Gesichtspunkt ihrer Gleichberechtigung als Mitsieger und Partner des neuen Voelkerstrafrechts reboten, heute noch Anspruch auf Geltung hat. Denn letzten Endes ist es auch Aufgabe dieses Prozesses, zur Ermittlung der Wahrheit beizutragen. Diese Aufgabe wird illusorisch, wenn man die Unantastbarkeit der seinerzeitigen Handlungen eines Ver-

transportners statuiert, der in Verhaeltnis zur Voelker-
rechts-gemeinschaft seine Aussenseiterstellung in wachsen-
der Klarheit beweist.

VI.

In den Zivilrechtssystemen wohl aller Kulturstaaen ist
es anerkannt, dass unter bestimmten Voraussetzungen auch
die persoenlichen Eigenschaften und Verhaeltnisse der
Vertragspartner zur stillschweigenden, allseits unterstell-
ten Vertragsgrundlage erhoben zu werden pflegen. Dies ist -
wenn wir uns zunaechst wiederum auf das Zivilrecht berufen-
insbesondere bei Vertragen der Fall, die Dauer, oder be-
sondere Vertrauensverhaeltnisse zum Gegenstand haben. Bei
ihnen kommt es auf die persoenli-

chen Verhaeltnisse des Vertragspartners entscheidend an. Wenn nun der Partner Eigenschaften, die ihn bei objektiver Wuerdigung der Sachlage zum Vertragspartner untauglich machen und den redlichen Partner zur Abstandsnahme von der geplanten Vereinbarung berechtigen wuerde, arglistig unterdrueckt, oder deren Nichtvorliegen positiv vorspiegelt, so ist nach allgemein herrschender Auffassung einem solchen Vertragspartner die Grundlage entzogen.

Zweifellos in des Voelkerrechtsleben uebertragbar (wozu auch das voelkerrechtliche Vertragsrecht Parallelen aufweist) ist die vertragszerstoerende, die Vertragsgrundlagen aufhebende Wirkung des Vertragsbeitrittes solcher Partner, die persoenlich zum Abschluss derartiger Verträge keine Qualifikation aufweisen. Wenn z.B. ein dauernd neutralisierter Staat, wie die Schweiz, einem zwischen 2 anderen Staaten geschlossenen Buendnis beitreten wuerde, so wuerde, da der Schweiz eine entsprechende Handlungsfähigkeit fehlt, der entsprechende Buendnisbeitritt mit einem rechtszerstoerenden Fehler behaftet sein und keine Rechtswirkung erzeugen koennen. Aus diesem Grund hat auch die Schweiz, als sie 1920 dem Genfer Voelkerbund beitrug, am 13. Februar 1920 eine Erklaerung abzugeben, durch welche sie sich von der an sich allen Bundesmitgliedern obliegenden militaerischen Beistandspflicht lossagte. Erst durch eine solche Erklaerung wurde der Beitritt der Schweiz zum Voelkerbund zulassig.

Es gilt nun, die Parallele zum konkreten Fall zu ziehen. Es steht selbstverstaendlich nicht in Frage, die allgemeine Handlungsfähigkeit der Sowjetunion, unter Berufung darauf abzuleugnen, dass sich ihre Organe seinerzeit selbst bestimmter Taten im Rahmen des Londoner Protokolls schuldig gemacht haben. Wohl aber steht der Mitwirkung der Sowjetunion an solchen internationalen Verträgen, welche die

Bestrafung von Urhebern von Friedensverbrechen re-eln,
ein ex persona betruendetes Hindernis entgegen. Dies er-
gibt sich aus folgenden Ueberlegungen: Der moralische
Sinn derartiger Abkommen wuerde in sein Gegenteil verkehrt
werden, wenn an ihrer Schaffung solche Staaten mitwirken
koennten, die durch ihre verantwortlichen Organe selbst
die gleichen Straftaten begangen haben oder begangen lies-
sen. Die Rechtsgueltigkeit derartiger Vereinbarungen wuerde
vor der Weltpuublicklichkeit einen Stoos erhalten, von dem
sie sich nicht mehr erholen koennte. Und endlich wuerden
die uebrigen, loyalen Partner eines solchen Abkommens
durch ihr Paktieren mit dem Aussenseiter der Voelkerrechts-
gemeinschaft ihren eigenen Ruf als Hueter der internationa-
len Gesetzmassigkeit zwangsmaessig einbuesen muessen.
Die Wirkung derartiger ex persona betruendeter Hinderungs-
gruende kann nun zweifel-

los nicht nach einem allgemeinzureichenden Massstab beurteilt werden. Bestimmte lebenswichtige Verträge (z.B. Bündnisse) oder solche Abkommen, bei denen die persönliche Loyalität des Partners von keiner ausschlaggebenden Bedeutung ist, werden daher die Anlegung eines grosszügigen Massstabes rechtfertigen. Ganz anders ist dagegen die Beurteilung bei solchen Verträgen, bei denen die völkerrechtliche Loyalität eine der Grundbedingungen des Erfolges des Abkommens ist. Dies gilt insbesondere für solche Verträge, die den Anspruch erheben, einen Beitrag zu einem neuen, geleuterten fortschrittlichen Völkerrecht darzustellen, in besonderem Masse mithin für solche Abkommen, die, wie das Londoner Statut und das Kontrollratsgesetz Nr. 10 Abhandlung von Kriegsverbrechen zur Aufgabe haben. Man darf nicht verkennen, dass schon die bloße Tatsache, dass nach diesen Verträgen die Sieger über die Besiegten zu Gericht sitzen, eine schwere moralische Belastung der Verträge darstellt. Abkommen dieser Art sind - keineswegs nur in den Augen der besiegten Völker - von vornherein einer besonderen kritischen Betrachtung ausgesetzt. Diese kann nur dann allgemeiner Billigung, einer übereinstimmenden *voluntatis necessitatis* weichen, wenn an Zustandekommen der Bestrafungsabkommen nur solche Partner mitgewirkt haben, die von einer Mitschuld frei sind. Ist dies nicht der Fall und sitzen mitschuldige Staaten nur deshalb, weil der Kriegsausgang zu ihren Gunsten entschieden hat, im Gremium der Gesetzgeber, so ist das Urteil der *conscience publique* gestrichen.

Um einem immerhin möglichen Missverständnis vorzubeugen, muss auch an dieser Stelle darauf hingewiesen werden, dass die materiell-strafrechtliche Verantwortung der deutschen Kriegeschuld durch die Mit- oder Nebenschuld der Organe der Sowjetunion nicht beseitigt wird. Aber: der Anwendung des Bestrafungsabkommens wird die materielle Grundlage

entzogen, wenn das Zustandekommen des Vertrages an einen Mangel der vorbezeichneten Art krankt. Prozessfragen, nicht Fragen materieller Verantwortlichkeit stehen zur Diskussion.

Wir haben den Antrag gestellt, festzustellen, dass das Londoner Vertragwerk mit seinen Ausführungsbestimmungen über diesen Prozess unwirksam ist. Das Londoner Vertragwerk kann neues "positives Völkerrecht" nicht erzeugen. Dabei mag auch die Tatsache vermerkt werden, dass diese Unfähigkeit nicht auf der ideellen Zielsetzung allgemeiner völkerrechtlicher Abkommen zur Bestrafung von Kriegsverbrechen, sondern ausschließlich auf dem Zustandekommen des Vertragwerkes infolge Mitwirkung eines konkret unehrlichen Partner beruht.

VII.

Wir machen diesen Einwand in diesem Prozess geltend, da uns das im amerikanischen Recht charakteristisch gestaltete Verhältnis des Richters zum Gesetz den Weg dazu eröffnet. Es liegt nahe, das Prüfungsrecht des amerikanischen Richters gegenüber der Verfassungsmässigkeit gesetzten Rechts als Parallele zu wählen, umso mehr, als die ungeschriebenen Normen iener das richterliche Prüfungsrecht fuer alle amerikanischen Richter gelten, mithin auch fuer den auf Grund der Verordnung Nr. 7 konstituierten Militärgerichtshof.

Das Londoner Statut, das Kontrollratsgesetz Nr. 10 und die auf ihnen beruhenden Ausführungsnormen bezeichnen sich als Bausteine des neuen Voelkerrechts und mehr als einmal ist in der Begründung des 1. Nuernberger Urteils der Satz aufgetaucht, dass das, was das Londoner Statut in die Worte eines zur Aburteilung speziell der deutschen Kriegsverbrecher dienenden Vertrages gekleidet hat, der Sache nach nichts anderes ist, als ein allgemeingultiges Gesetz, ein Gesetz des Voelkerrechts. Wenn dies aber der Fall ist, so muss sich dieses Gesetz des Richters, der zu seiner Anwendung berufen ist, auch diejenige Prüfung gefallen lassen, der jedes Gesetz im Hinblick auf seine Verfassungsmässigkeit unterliegt. Es besteht, wenn wir der amerikanischen Rechtsauffassung folgen, keinerlei Grund, einen voelkerrechtlichen Vertrag anders zu behandeln, als ein nationales, internes Gesetz. Im Gegenteil; auf dem Gebiet der nationalen Gesetzgebung bestehen im allgemeinen - schon durch die Homogenität der gesetzgebenden Organe - mehr Garantien dafuer, dass die einzelnen Gesetze sich innerhalb des Rahmens und Geistes der Verfassung halten, als im Voelkerrecht, wo das Gremium der Gesetzgeber mehr oder weniger zusammengewürfelt, mehr oder minder - man denke an Kollekt-

tivvertrage wie den vorliegenden - durch den Zufall bestimmt ist. Auch voelkerrechtliche Normen unterliegen dem richterlichen Pruefungsrecht.

Daher wird jeder Satz des Voelkerrechts durch das Gericht auf seine Uebereinstimmung mit den allgemein anerkannten Grundregeln des Voelkerrechts geprueft werden muessen. Diese Grundregeln, deren Bestehen unbeschadet der Schwierigkeiten ihrer Ermittlung und Abgrenzung im Einzelfall heute, in einer Zeit der Besinnung gerade des Voelkerrechts auf uebergesetzliche, aber durch die conscience publique getragenen Leitsaetze voellig unbestritten ist, vertreten mutatis mutandis hier die Stelle des nationalen Verfassungsrechts.

Zu den Grundprinzipien des Voelkerrechts gehoeren auch die allgemeinen Grundregeln des Vertragsrechts. Die Regeln ueber Wirkksamkeit und Unwirkksamkeit von Vertragen sind, mag ueber ihre Auslegung im Einzel*all auch Streit bestaa*hen, gegenueber dem System des Londoner Vertragswerkes, die allgemeineren, um*fassenderen und aelteren Satze; ebenso wie ein voelkerrechtlicher Vertrag als unwirksam behandelt werden muss, wenn er z.B. die Souverae*ntitaet eines Staates in unsittlicher Weise einengt, eben weil die entsprechenden Vertragsbestimmungen den uebergeordneten, allgemeinguetigen Regeln ueber die Souverae*ntitaet zuwiderlaufen, ebenso sind ad hoc getroffene Voelkerrechtsabkommen, die einen von den allgemeinen Rechtsprinzipien des Voelkerrechts anerkannten Mangel in sich tragen, als unwirksam zu behandeln.

Deher wird das amerikanische Militaergericht nicht von der Verpflichtung entbunden, die materielle Geltung des Londoner Vertragswerkes und der zu dessen Ausfuehrung erlassenen Normen einer Pruefung zu unterziehen, zumal nach meiner Auffassung sich auch der Militaergerichtshof Nr.III in seinen Ausfuehrungen im Urteil gegen Altstoetter u.a. zu dieser Ansicht bekannt hat. An Stelle der Pruefung "auf die Verfassungsmae*ssigkeit" tritt hier die Pflicht zur Pruefung des auf vitioe*ser Grundlage erlassenen Londoner Vertragswerkes im Hinblick auf seine Vereinbarkeit mit den uebergeordneten, generellen Regeln ueber die Wirkksamkeit voelkerrechtlicher Abmachungen.

Kommt das Gericht auf Grund einer solchen Pruefung zur Beja*hung eines derartigen Mangels der genannten Vertraege, so steht der Fortfuehrung des Verfahrens ein peremptorisches Hindernis entgegen. Sache des Gerichts wird es sein, diesem Verfahrenshindernis prozessual Ausdruck zu geben.

gez. Rudolf Aschenauer

343
0

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
17 MARCH 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

FILED 19 Mar 48 With
Secretary General
Case No. 6
Center

In order to discharge the obligation resting upon it to achieve an expeditious hearing of the issues and to avoid unreasonable delay, (Military Government Ordinance Number 7, Article VI), the Tribunal finds it necessary to issue the following:

ORDER:

1. Judge Johnson J. Crawford is hereby appointed a Commissioner of this Tribunal to preside at and supervise the taking of the testimony of such witnesses as may hereafter, from time to time, be designated by the Tribunal on the official record of its proceedings.

2. Before assuming his official duties hereunder the said Judge Johnson J. Crawford shall take, subscribe to and file with the Secretary General an oath or affirmation to the effect that he will honestly, faithfully and impartially perform and discharge his duties as such Commissioner.

3. Said Commissioner shall have power to administer oaths, take evidence; enforce the attendance of witnesses, parties and counsel; preserve good order; fix and determine the time of his hearings; and do all other things reasonably necessary to the proper administration of his office; all subject to the directions of the Tribunal and review by the Tribunal for good cause shown.

4. The said Commissioner shall cause a verbatim report of his proceedings, including the testimony and evidence taken before him, to be properly recorded, reported, certified to, and filed in the Office of the Secretary General. All evidence so reported by the Commissioner shall be considered by the Tribunal as of the same force and effect as evidence heard by the Tribunal in open court. The Commissioner shall also cause an appropriate number of copies of all such testimony and evidence, in the German and English languages, to be made available for the use of the Tribunal and counsel in this cause.

5. It shall be the duty of the Secretary General and the Marshal of the Tribunal to make available to said Commissioner such facilities, services and accommodations as may be reasonably necessary for the proper discharge of his official duties.



- 2 -

3. This Order is without prejudice to the power and authority of the Tribunal to modify or rescind the same at its pleasure.

MILITARY TRIBUNAL VII



Quirix E. H. H. H.
PROSECUTOR

James M. M. M.
PROSECUTOR

James M. M. M.
PROSECUTOR

Clara F. M. M.
PROSECUTOR

Dated this 17th day of March 1948

PROSECUTION NOTIFIED
13 MARCH 48

DEFENSE NOTIFIED

MILITARY TRIBUNALS

Burnberg, Germany

FILED 28 MAR 48
SECRETARY GENERAL
for Military Tribunals
Defense Center

UNITED STATES OF AMERICA

Against

Krauch et al.

344

(1)

Defendant's Application for Process for Witness

To: The Secretary General, Military Tribunals:

I, Dr. Erich Berndt attorney for Wilhelm R. Mann
(Name of Defendant), hereby request that follow-

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Dr. Herbert Rauscher

Occupation and last known location:

Manager of the Heerdt-Kingler Ltd, Frankfurt/Main, Beckenheimer
Landstrasse 33

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

About utilization of cyclon

These facts are relevant to the defense for the following reasons:

To clarify the matter of cyclon

Prosecution's answer of 24 March 1948:

No objection, however, the defendant MANN has
previously requested twelve witnesses.

22 March 1948

(Date)

D.A. Precher
Chief, Foreign Trial Team
(S) Dr. Berndt

Signature of Defendant's Counsel

Decision of Tribunal

Presiding Judge:

1622

MILITÄRGERICHTSHOF VI
Nürnberg, Deutschland

VEREINIGTE STAATEN VON AMERIKA

gegen

Krauch und andere

Antrag eines Angeklagten zur Zeugenverladung

In den Generalsekretariat des Militärgerichtshofes:

Ich, Dr. Erich Berndt Verteidiger fuer Wilhelm R. Mann

, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Dr. Herbert Rauscher

Beruf und bisheriger Wohnort:

Geschäftsführer der Heerdt-Linsler G. m. b. H., Frankfurt/M.
Bockenheimer Landstr. 33

Weitere Angaben die zur Auffindung des benannten Zeugen dienen könnten:

Die oben benannte Person weist ueber die folgenden Tatsachen Bescheid:
ueber Verwendung des Zyklons

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Klaerung der Zyklonangelegenheit
Prosecution's Exhibit 101 dated 1947

As requested, however, the witnesses have not
previously requested their witnesses.

22. Maers 1948

(Datum)

Chief, Federal Bureau of Investigation

Unterschrift des Verteidigers

Beschluss des Gerichtshofs

1623

Vorsitzender Richter

3450

(Date) 16 March 1948

U.S. vs. FRANCK a.o.

Notice of Witnesses

TO BE CALLED BY THE DEFENSE



Notice is hereby given that the Defendant FRANCK

FRANCK may call the witness named below to testify concerning the matters hereinafter stated.

Name : Adolf Friedrich Herzog zu Mecklenburg
Nationality : German
Address : Berlin/Neust., Schloss
Position :
Nature of Testimony : Kieler Wochen a.o.

Witness to be called into witness stand either Thursday (18-3-48)
or Friday (19-3-48)

Received:

Date _____ Time _____

Testified 22 Mar 48

Annina Kenna
Assistant Secretary General
Tribunal VI

3452

(Date) 16 March 1948

U. S. vs. FRANKE & CO.

Notice of Witnesses

TO BE CALLED BY THE DEFENSE

Notice is hereby given that the Defendant MAX
LIGNER may call the witness named below to
testify concerning the matters hereinafter stated.

Name : Dr. Bernhard BLUTHGEN
Nationality : German
Address : Berlin-Frohnau, Besselheiderweg 19
Position :

Nature of Testimony : South Eastern Europe Politics of Max Ligner

Witness to be called into witness stand either Thursday (18-3-48)
in the afternoon hours or Friday (19-3-48)

Received:

Date _____ Time _____

Testified 19 Mar 48

Maxine De Vries
Assistant Secretary General
Trials II

346

(Date) 16 March 1948

U.S. vs. FRAGE a.c.

Notice of Witnesses
TO BE CALLED BY THE DEFENSE



Notice is hereby given that the Defendant FRAGE

JIGSER may call the witness named below to
testify concerning the matters hereinafter stated.

Name	: Dr. Guenther FRAGE-FARLE
Nationality	: German
Address	: Luisenhof, Oberursel im Taunus
Position	: Re Organisation of I.G. Berlin NW 7
Nature of Testimony	:

Witness to be called into witness stand either Thursday (18-3-48)
in the afternoon hours or Friday (19-3-48)

Received:

Date _____ Time _____

Testified 22 Mar 48

Maxime De Vries
Assistant Secretary General
Tribunal VI

347

Dr. Hans Frihilla
 Defense Counsel
 for
 Friedrich Jauch
 Military Tribunal
 W I N N B E R G.

Winnberg, 22 March 1948

FILED 23 March 48
Alm
 Secretary General
 605-1-1-2-33
 Nürnberg, Germany

C O R R E C T I O N

concerning document books J a c h e II and III.

- a) Page IV of the index of the document book Jauch II contains uncorrect document numbers :

Doc. number 38	should be	Doc. number 37
" " 39	" " " "	38
" " 40	" " " "	39
" " 41	" " " "	40
" " 42	" " " "	41

- b) In document book III the number of the first document is uncorrect :

Doc. number 37 should be Doc. number 42
 on page 1 as well as in the index.

H. Hans Frihilla
 Dr. Hans Frihilla
 Lawyer

Distributed in open court and read into the record 23 March 1948.

1627

Heinrich La Vigne
 Assistant Secretary General

see 6

UNITED STATES MILITARY TRIBUNAL
SITTING IN THE PALACE OF JUSTICE, NÜRNBERG, GERMANY

COMMISSIONER'S OATH

FILED 23 March 48
S.T.
Secretary General
for Military Tribunals
Nürnberg, Germany

I, the undersigned, Johnson T. Crawford, an American citizen, now residing at Nürnberg, Germany, being the person named in an order of the Tribunal No. VI dated 17th March 1948, hereby take and subscribe my oath as required in said order, as follows:

I will honestly, faithfully, and impartially perform and discharge my duties as Commissioner under the aforesaid order.

So help me God.

Johnson T. Crawford
JOHNSON T. CRAWFORD

Subscribed and sworn to before me this 22nd
day of March 1948.

John D. Ray
Colonel R.A.
Secretary General
Military Tribunals

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
24 MARCH 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

FILED *27 March 1948* with
Secretary General
Case No. 100-1 by Tribunal
Defense Center

ORDER

With reference to the Order of the Tribunal, dated 26 February 1948, referring certain matters to James H. Mulroy as Commissioner for the taking of testimony,

IT IS HEREBY FURTHER ORDERED until the further order of the Tribunal, all testimony to be taken pursuant to the said Order of 26 February 1948, shall be taken before Judge Johnson T. Crawford, appointed commissioner of this Tribunal by Order dated 17 March 1948.

Walter J. Hake
Presiding Judge

J. W. M. M.
Judge

Lawrence H. Hake
Judge

Clarence W. M.
Alternate Judge

Dated this 24th day of March 1948

PROSECUTION NOTIFIED

27 March 1948 JCH

DEFENSE NOTIFIED

12 March 1949

350

Ivanchuk et al.

NOTICE OF DEFENSE WITNESS

Dr. Hans Frick

FILED 24 March 49

F.T.

Secretary General

for Military Tribunals

Nürnberg, Germany

Dr. Hans Frick

Dr. Otto Hirschel

German

Head of the Personnel Department

with the Henschel Dyestuff plant

**Treatment given to foreign labor
in the Henschel Dyestuff plant.**

By proxy:

(s) illegible

Testified 24 Mar 49

Hans Frick
Assistant Secretary General

(Date: 12 March 1948)

U.S. vs. Ernst et al.

FILED 25 March '48

 4-1
 Secretary General
 of Military Tribunals
 Nurnberg, Germany

Notice of Witnesses

TO BE CALLED BY THE PROSECUTION

Dr. Hans Feilcke

Notice is hereby given that the Defendant

Feilcke may call the witness named below to testify concerning the matters hereinafter stated.

Name	: Hans Feilcke
Nationality	: German
Address	: Frankfurt/Main Schillerstr. 27
Position	: Former Head of the Factory Administration Department in Bochum
Nature of Testimony	: Feilcke's knowledge of war plans, his activity with the air protection, Activity of the Works Security Staff, Treatment of foreign labor.

By order

(s) illegible

Subscribed

Dated this _____

Testified 25 March 48

Maurice A. Kenna
 Assistant Secretary General
 Tribunal VI

352

①

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

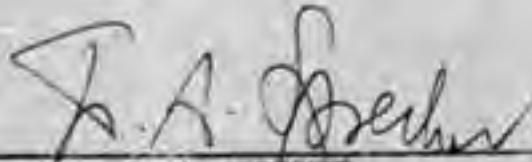
KRAUSE and Others (Case VI)ANSWER TO 13 APPLICATIONS FOR SUMMONSES OF WITNESS ON BEHALF OF THE
DEFENDANT DUEHRFELD

To: The Secretary General, Military Tribunals (Room 381)

1. Answer is made to 13 applications for summonses of witnesses by Dr. Seidl, counsel for the defendant DUEHRFELD, all dated 25 March 1948. The 13 witnesses involved are Wilhelm Josef Boymanns, Georg Feiga, Franz Fuerstenberg, Fritz Hirsch, Theophil Jastrzebski, Adam Mueller, Martin Nestler, Kurt Roediger, Helmut Schneider, Hermann Stradal, Dr. Werner Vaje, Guenther Wagner, and Otto Wolter. Each of the witnesses is alleged to have knowledge of "working conditions in the Auschwitz plant".

2. The prosecution has no objection to any of these applications.

By:


D. A. SPEECHER
Chief, FAIRER TRIAL TEAMNurnberg 1 April 1948
Date

For:

TALFORD TAYLOR
Brig. Gen. USA
Chief of Counsel

MILITARY TRIBUNALS

Nurnberg, Germany

Tribunal VI

UNITED STATES OF AMERICA

Against

Karl Krauch et al.

352 ②
FILED 29 Mar 48 with
SECRETARY GENERAL
for Military Tribunals
Defense Center

Defendant's Application for Person for Witness

TO: The Secretary General, Military Tribunal:

I, Dr. Alfred Seidl

attorney for

Dr. Walther Duerfeld

(Name of Defendant)

, hereby request that follow-

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Wilhelm Josef Boymann,

Occupation and last known location: Engineering Office for Constructions
Munich-Oldstadt, Franziskanerstr. 23

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Working conditions in the Auschwitz plant.

These facts are relevant to the defense for the following reasons:

25 March 1948

(Date)

(s) Dr. Seidl

PROSECUTION AND
DEFENSE NOTIFIED

Signature of Defendant's Counsel

Decision of Tribunal

Emilia J. Thorne
Presiding Judge.

MILITÄRGERICHTSHOF
Nürnberg, Deutschland
Tribunal VI
VEREINIGTE STÄATEN VON AMERIKA

352 ③
FILED 29 May 48 with
SECRETARY GENERAL
for Military Tribunals
Defense Center

gegen
Karl Krauch u.a.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Dr. Alfred Seidl Verteidiger fuer Dr. Walther Duerrfeld
Ich, _____

beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werden:

Wilhelm Josef Boymanns, Ingenieurbuero fuer Bauwesen

Beruf und Lebensbekannter Wohnort:

München - Gladbach, Franziskanerstrasse 23

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person weist ueber die folgenden Tatsachen Bescheid:

Arbeitsbedingungen im Werk Auschwitz

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

25. Maerz 1948

(Datum)

H. Seidl
Unterschrift des Verteidigers
Dr. Alfred Seidl, Rechtsanwalt

Beschluss des Gerichtshofs

1634

Vorsitzender Richter

27 Mar 48

353

①

MILITARY TRIBUNALS

Nuremberg, Germany

UNITED STATES OF AMERICA

Against

KAUFMAN and Others (Case VI)


ANSWER TO 13 APPLICATIONS FOR SUBPOENAS OF WITNESSES ON BEHALF OF THE
DEFENDANT KAUFMAN

To: The Secretary General, Military Tribunals (Room 261)

1. Answer is made to 13 applications for subpoenas of witnesses by Dr. Seidl, counsel for the defendant KAUFMAN, all dated 25 March 1948. The 13 witnesses involved are Wilhelm Josef Reymann, Georg Feige, Franz Furschberg, Fritz Hirsch, Theophil Jastrzebski, Adam Mueller, Martin Neetler, Kurt Rostiger, Helmut Schneider, Hermann Strodel, Dr. Werner Taje, Günther Wagner, and Otto Walter. Each of the witnesses is alleged to have knowledge of "working conditions in the Auschwitz plant".

2. The prosecution has no objection to any of these applications.

By:


D. A. SPENSER
Chief, KAUFMAN TRIAL TEAM

Nuremberg 1 April 1948
Date

For:

WILFRED BAYLER
Brig. Gen. USA
Chief of Counsel

MILITARY TRIBUNALS

Furnberg, Germany

Tribunal VI
UNITED STATES OF AMERICA

Against

Karl Krauch et al.

353
2
FILED 29 Mar 48 with
SECRETARY GENERAL
for Military Tribunals
Defense Center

Defendant's Application for Defense for Witnesses

TO: ~~The Secretary General~~, Military Tribunals:

I, Dr. Alfred Seidl

attorney for

Dr. Walther Doerrfeld

(Name of Defendant)

hereby request that follow-

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Georg Feige

Occupation and last known location:

Grad. Engineer, Voelklingen/Saar, Staelstr. 22

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Working conditions in the Auschwitz plant.

These facts are relevant to the defense for the following reasons:

25 March 1948

(Date)

(s) Dr. Seidl

Signature of Defendant's Counsel

Decision of Tribunal

Approved

André S. Hahn
Presiding Judge.

Case 6

7 Apr 1948

1636

PROSECUTION AND
DEFENSE NOTIFIED

82 April 48

MILITÄRGERICHTSHOF
Saarburg, Deutschland

Tribunal VI

VEREINIGTE STAATEN VON AMERIKA

gegen

Karl Krauch u.a.

353
FILED 24 March 1948 with
SECRETARY GENERAL
for Military Tribunals
Defense Center

Antrag eines Angeklagten zur Zeugenverladung

In dem Generalsekretär des Militärgerichtshofes:

Ich, Dr. Alfred Seidl Verteidiger für Dr. Walther Duerrfeld

beachte hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Dipl. Ingenieur Georg Feigl

Beruf und bisher bekannter Wohnort:

Völklingen/Saar, Etzelstrasse 22

Weitere Angaben die zur Auffindung des benannten Zeugen dienen könnten:

Die oben benannte Person wies über die folgenden Tatsachen Bescheid:
Arbeitsbedingungen im Werk Auschwitz.

Diese Tatsachen sind aus folgenden Gründen erheblich für die
Verteidigung:

25. März 1948

(Datum)

A. Seidl

Unterschrift des Verteidigers
Dr. Alfred Seidl, Rechtsanwalt

Beschluss des Gerichtshofs

1637

Vorsitzender Richter

MILITARY TRIBUNALS

Munberg, Germany

Tribunal VI

UNITED STATES OF AMERICA

Against

Earl Krauch et al.

(Case No. 5)

Defendant's Application for Defense for Witness

TO: The Secretary General, Military Tribunal at:

I, Dr. Alfred Seidl attorney for

Dr. Walther Duerfeld, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Franz Fuerstenberg,

Occupation and last known location:

Grad. tradesman, Oker am Hart, Hahrenbergstr. 15

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Working conditions in the Auschwitz plant.

These facts are relevant to the defense for the following reasons:
To refute the indictment

25 March 1948

(Date)

(s) Dr. Seidl

Signature of Defendant's Counsel

Decision of Tribunal

Approved

Quinn V. Nash

Presiding Judge

7 Apr 1948

PROSECUTION AND
DEFENSE NOTIFIED

8 April 48

354 ①
FILED 29 Mar with
SECRETARY GENERAL
for Military Tribunals
Defense Center

MILITÄRGERICHTSHOF
Münsterberg, Deutschland
Tribunal VI

VEREINIGTE STAATEN VON AMERIKA

gegen
Karl Krauch u.a.

Fall Nr. 6

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Alfred Seidl, Verteidiger fuer Dr. Walther Puerrfeld

, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Franz Fuernstenberg, Dipl. Kaufmann

beruf und Wohnort:
Ghar am Harz, Bahnenbergstr. 15

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person wies ueber die folgenden Tatsachen Bescheid:
Arbeitsbedingungen im Werk Auschwitz

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Widerlegung der Anklage.

25. Maers 1948

(Datum)

A. Seidl
Unterschrift des Verteidigers
Dr. Alfred Seidl, Rechtsanwalt

Beschluss des Gerichtshofs

1639

Vorsitzender Richter

354②
FILED. 29. March
SECRETARY GENERAL
for Military Tribunals
Defense *Seidl*

MILITARY TRIBUNALS

Furnberg, Germany

Tribunal VI
UNITED STATES OF AMERICA

Against

Karl Krauch et al.

355 0

Filed 29 March 1948
SECRETARY GENERAL
for Military Tribunals
Defense Center

Defendant's Application for Orders for Witnesses

TO: The Secretary General, Military Tribunals:

I, Dr. Alfred Seidl attorney for

Dr. Walther Duerrfeld hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Fritz Hirsch

Occupation and last known location:

Fellbach near Stuttgart, Cannstattstrasse 4

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:
working conditions in the Auschwitz plant.

These facts are relevant to the defense for the following reasons:

25 March 1948

(Date)

(s) Dr. Seidl

Signature of Defendant's Counsel

Decision of Tribunal

Presiding Judge.

7 Apr 1948

1648

PROSECUTION AND
DEFENSE NOTIFIED

8 April 1948

MILITÄRGERICHTSHOF
Ruesberg, Deutschland
~~Deutschland~~ Tribunal VI
VEREINIGTE STAATEN VON AMERIKA

gegen
Karl Krauch u.s.

355 ② ✓
FILED 29 Mar 48 with
SECRETARY GENERAL
for Military Tribunals
Defense Center

Antrag eines Angeklagten zur Zeugenverladung

in dem Generalsekretär des Militärgerichtshofes:

Ich, Dr. Alfred Seidl Verteidiger fuer Dr. Walther Duerrfeld

_____, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Fritz Hirsch

Beruf und ~~beruf~~ bekannter Wohnort:

Fellbach bei Stuttgart, Cannstatterstrasse 4

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person wies ueber die folgenden Tatsachen Bescheid:

Arbeitsbedingungen im Werk Auschwitz

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

25. Maerz 1948

(Datum)

A. Seidl

Unterschrift des Verteidigers
Dr. Alfred Seidl, Rechtsanwalt

Beschluss des Gerichtshofs

1641

Vorsitzender Richter

MILITARY TRIBUNALS

Nurnberg, Germany

Tribunal VI
UNITED STATES OF AMERICA

Against

Earl Krasch et al, Case No. 6

FILED 20 Mar 48 with
SECRETARY GENERAL
100-100000-1

356

①

Defendant's Application for Order for Witnesses

TO: The ~~Secretary~~ General, Military Tribunal:

I, Dr. Alfred Seidl attorney for

Dr. Walther Guerrfeld, hereby request that follow
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Theophil Jastrzebski

Occupation and last known location:

Leuna, Kirchgasse 4

Other information that may aid in locating the Person named:

The person above named has knowledge of the following fact:

Working conditions in the Ansbach plant.

These facts are relevant to the defense for the following reasons:

25 March 1949

(Date)

(s) Dr. Seidl

Signature of Defendant's Counsel

Decision of Tribunal

7 Apr 1948
1642
PROSECUTION AND
DEFENSE NOTIFIED

Presiding Judge

Curtis J. Wade
8 April 48

MILITARY TRIBUNALS

Munich, Germany

Tribunal VI

UNITED STATES OF AMERICA

Against

Karl Krauch et al. (Case No. 6)

FILED 29 May 48 with
SECRETARY GENERAL
for Military Tribunals
Defense Center

357

①

Defendant's Application for Process for Witness

TO: The Secretary General, Military Tribunal:

I, Dr. Alfred Seidl

attorney for

Dr. Walther Duerkfeld

(Name of Defendant)

, hereby request that follow-

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Adam Mueller

Occupation and last known location:

Foreman, Leuna, District Merseburg, Drosselweg 22

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Working conditions in the Auschwitz plant

These facts are relevant to the defense for the following reasons:

25 March 1948

**PROSECUTION AND
DEFENSE NOTIFIED**

(s) Dr. Alfred Seidl

Signature of Defendant's Counsel

Signature of Tribunal

Presiding Judge.

1644

MILITÄRGERICHTSHOF
Muerzburg, Deutschland
Tribunal VI

VEREINIGTE STAATEN VON AMERIKA

gegen
Karl Krauch u.a. (Fall Nr. 6)

FILED 29 May 48 with
SECRETARY GENERAL
for Military Tribunals
Defense Center

357

(2)

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Alfred Seidl Verteidiger fuer Dr. Walther Duerrfeld

, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Adam Mueller, Werkmeister

Beruf und bekanntester Wohnort:

Leuna Kreis Merseburg, Drösselweg 22

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person weiss ueber die folgenden Tatsachen Bescheid:
Arbeitsbedingungen im Werk Auschwitz

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

25. Maerz 1948

(Datum)

Unterschrift des Verteidigers
Dr. Alfred Seidl, Rechtsanwalt

Beschluss des Gerichtshofes

1645

Vorsitzender Richter

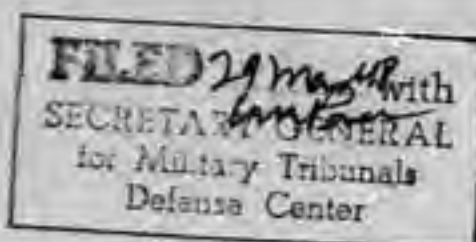
MILITARY TRIBUNALS

Stuttgart, Germany

Tribunal VI
UNITED STATES OF AMERICA

Against

Karl Krauch et al.



358

Defendant's Application for Counsel for Witness ①

TO: The Secretary General, Military Tribunal:

I, Dr. Alfred Seidl attorney for

Dr. Walther Duerrfeld, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Nestler, Martin

Occupation and last known location:

Stuttgart Bad Cannstadt, Euericherstr. 20

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Working conditions in the Auschwitz plant

Those facts are relevant to the defense for the following reasons:

25 March 1948

(Date)

(s) Dr. Seidl

Signature of Defendant's Counsel

Decision of Tribunal

Presiding Judge.

7 Apr '48

1646

NOTIFIED 8 April 48

MILITÄRGERICHTSHOF
Munich, Deutschland

~~General~~
VEREINIGTE STAATEN VON AMERIKA

gegen

~~Karl Franz~~

Antrag eines Angeklagten zur Zeugenverladung

In dem Generalsekretär des Militärgerichtshofes:

Ich, ~~Dr. Alfred Seidl~~ Verteidiger fuer ~~Dr. Walter Duerfeld~~
, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werden:

~~Seidler, Maria~~
Beruf und bekanntester Wohnort:

~~Stuttgart Bad Ganssberg, Zeelestr. 20~~

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

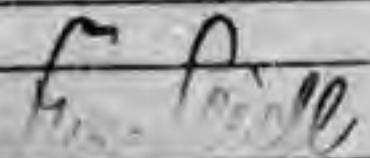
Die oben benannte Person weiss ueber die folgenden Tatsaechen Bescheid:

~~Arbeitsbedingungen im Werk Sechelte~~

Diese Tatsaechen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

~~Widerlegung der Anklage.~~

25. Mai 1948
(Datum)


Unterschrift des Verteidigers

~~Beschluss des Gerichtshofes~~
Dr. Alfred Seidl, Rechtsanwalt

858
② ✓
FILED 29 May 48 with
SECRETARY GENERAL
for Military Tribunals
Defense Center

MILITARY TRIBUNALS

Nurnberg, Germany

Tribunal VI
UNITED STATES OF AMERICA

Against

Karl Krauch et al, Case No. 6

FILED (Ch. 29) March 29 1948
SECRETARY GENERAL
U. S. Military Tribunals
Dulles Center

359

①

Defendant's Application for Defense for Witness

TO: The Secretary General, Military Tribunals:

I, Dr. Alfred Seidl attorney for

Dr. Walther Duerrfeld, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Kurt Roediger

Occupation and last known Location:

Spargau an der Kirche 16

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:
Working conditions in the Auschwitz plant.

Those facts are relevant to the defense for the following reasons:

25 March 1948
(Date)

(s) Dr. Seidl

Signature of Defendant's Counsel

Decision of Tribunal

Approved
7 Apr 1948

Quinn T. Phelan
Presiding Judge.

PROSECUTION AND
DEFENSE 1648 FILED

8 April 48
AA

MILITÄRGERICHTSHOF
Münsterberg, Deutschland
Tribunal VI

VEREINIGTE STAATEN VON AMERIKA

FILED 29 Mar 48 with
SECRETARY GENERAL
for Military Tribunals
Delaware Center

gegen
Karl Krauch u.a. Fall Nr. 6

359
(2)

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Alfred Seidl Verteidiger fuer Dr. Walther Duerrfeld

_____, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Kurt Reediger

Beruf und bekanntester Wohnort:

Spargau an der Elbe 16

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person wies ueber die folgenden Tatsachen Bescheid:

Arbeitsbedingungen im Werk Auschwitz

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

25. Maerz 1948

(Datum)

Dr. Alfred Seidl

Unterschrift des Verteidigers

Dr. Alfred Seidl, Rechtsanwalt

Beschluss des Gerichtshofes

1649

Vorsitzender Richter

MILITARY TRIBUNALS

Worms, Germany

Tribunal VI
UNITED STATES OF AMERICA

Against

Karl Krauch et al.

FILED 29 March 1948
SECRETARY GENERAL
for Military Tribunals
Defense Center

360

Defendant's Application for Defense for Witness

TO: The Secretary General, Military Tribunal:

I, Dr. Alfred Seidl

attorney for

Dr. Walther Duerrfeld

(Name of Defendant)

, hereby request that follow-

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Helmut Schneider

Occupation and last known location:

Attorney-at-Law, Goslar, Oberer Triftweg No. 22/1

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Working conditions in the Auschwitz plant.

These facts are relevant to the defense for the following reasons:

25 March 1948

(Date)

(s) Dr. Seidl

Signature of Defendant's Counsel

Signature of Tribunal

Approved

Presiding Judge.

7 Apr 1948

1650

PROSECUTION AND DEFENSE NOTIFIED 8 April 1948

MILITÄRGERICHTSHOF
Murnberg, Deutschland

Tribunal VI
VEREINIGTE STAATEN VON AMERIKA

gegen
Karl Krauch u.a.

360 ✓
②
FILED 29 May 48
SECRETARY *W. H. H. H.*
for Military Tribunals
Defense Center

Antrag eines Angeklagten zur Zeugenvernehmung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Alfred Seidl Verteidiger fuer Dr. Walther Duerfeld

_____, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Rechtsanwalt Helmut Schneider

Beruf und bisheriger Wohnort:

Gölar, Oberer Triftweg Nr. 22/I

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person weiss ueber die folgenden Tatsachen Bescheid:
Arbeitsbedingungen im Werk Auschwitz

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

25. Maerz 1948

(Datum)

A. Seidl

Unterschrift des Vert. i/M. g.

Dr. Alfred Seidl, Rechtsanwalt
Beschluss des Gerichtshofes

1651

Vorsitzender Richter

MILITARY TRIBUNALS

Munich, Germany

Tribunal VI
UNITED STATES OF AMERICA

Against

Karl Kersch et al.

FILED 29 May 48 with
SECRETARY GENERAL
of Military Tribunals
Dulles Center

361

(1)

Defendant's Application for Process for Witness

TO: The Secretary General, Military Tribunal:

I, Dr. Alfred Seidl attorney for

Dr. Walther Doerrfeld, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Bernann Stredal

Occupation and last known location:

Krefeld-Berdingen, Rheinuferstr. 7-9

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Working conditions in the Auschwitz plant.

These facts are relevant to the defense for the following reasons:

25 March 1948

PROSECUTION AND
DEFENSE NOTIFIED

(s) Dr. Seidl

Signature of Defendant's Counsel

Decision of Tribunal

Approved

Quinn J. Shaker
Presiding Judge.

Case 6 7 Apr 1948
1652

MILITÄRGERICHTSHOF
Muenberg, Deutschland
Tribunal VI

VEREINIGTE STAATEN VON AMERIKA

gegen
Karl Krauch u.a.

FILED 24 May 42 With
SECRETARY GENERAL
for Military Tribunals
Defense Center

361
(2)

Antrag eines Angeklagten zur Zeugenverladung

In dem Generalsekretariat des Militärgerichtshofes:

Ich, Dr. Alfred Seidl Verteidiger fuer Dr. Walther

Duerffeld, beantrage hiermit, dass die
(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Dipl. Ingenieur Hermann Stradal

Beruf und bekannter Wohnort:

Krefeld-Uerdingen, Rheinuferstr. 7-9

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person wies ueber die folgenden Tatsachen Bescheid:
Arbeitsbedingungen im Werk Auschwitz

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

25. Maerz 1942
(Datum)

A. Seidl

Unterschrift des Verteidigers
Dr. Alfred Seidl, Rechtsanwalt
Beschluss des Gerichtshofs

MILITARY TRIBUNALS

Hannover, Germany

Tribunal VI
UNITED STATES OF AMERICA

Against

Karl Krauch et al, Case No. 6

FILED 29 Mar 48
SECRETARY GENERAL
for Military Tribunals
Defense Center

362

①

Defendant's Application for Subpoena for Witness

To: The Secretary General, Military Tribunal:

I, Dr. Alfred Seidl attorney for

Dr. Walther Duerrfeld hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Dr. Werner Vaje

Occupation and last known location:

Factory Officer, Hannover, Mozartstr. 3b c/o Frau Caspary

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Working conditions in the Auschwitz plant.

These facts are relevant to the defense for the following reasons:

25 March 1948

(Date)

(s) Dr. Seidl

Signature of Defendant's Counsel

Decision of Tribunal

Presiding Judge.

PROSECUTION AND DEFENSE NOTIFIED
8 April 48

1654

7 Apr 1948

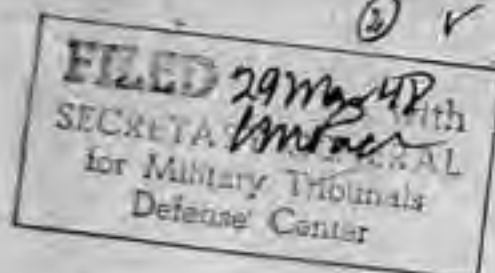
62006

MILITÄRGERICHTSHOF
Nürnberg, Deutschland

Dr. Alfred Seidl
VEREINIGTE STAATEN VON AMERIKA

gegen

Karl Krensch u.a. Fall Nr. 6



Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Alfred Seidl, Verteidiger fuer Dr. Walther Gauszfeld

, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Dr. KARL V. J. S. Gauszfeld

Beruf und Lebensbekannter Wohnort:

H a n n o v e r, Mozartstrasse 3b bei Frau Gauszfeld

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person wies ueber die folgenden Tatsachen Bescheid:

Arbeitsbedingungen in Werk Aumshausen

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

25. MAERZ 1948

(Datum)

K. Seidl

Unterschrift des Verteidigers

Dr. Alfred Seidl, Rechtsanwalt
Beschluss des Vorsitzenden

1655

Vorsitzender Richter

MILITARY TRIBUNALS

Nurnberg, Germany

Tribunal VI

UNITED STATES OF AMERICA

Against

Earl Kersch et al. (Case No. 6)

FILED 29 Mar 48
with
SECRETARY GENERAL
for Military Tribunals
Delaware Center

363

Defendant's Application for Subpoena for Witness ①

TO: The Court, Military Tribunal:

I, Dr. Alfred Seidl attorney for

Dr. Walther Duerfeld, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Guenther Wagner

Occupation and last known location:

Engineer, Mail-Drawer, Levetzmauerstr. 14

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Working conditions in the Auschwitz plant

These facts are relevant to the defense for the following reasons:

25 March 1948

(Date)

(s) Dr. Seidl

Signature of Defendant's Counsel

President of Tribunal

Presiding Judge.

PROSECUTION AND

1656 NOTIFIED

8 April 48

MILITÄRGERICHTSHOF
Munich, Deutschland
Tribunal VI

VERBUNDENE STAATEN VON AMERIKA

FILED 29 May 1948 with
SECRETARY GENERAL
for Military Tribunals
Defense Center

gegen

Karl Krauch u.a. (Fall Nr. 6)

363
(2)

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Alfred Seidl Verteidiger für Dr. Walther Durrfeld

, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Guenther Wagner, Ingenieur

Beruf und Wohnort:

Mari ~~Wagner~~ - Dreher, Lovikusenstr. 14

Weitere Angaben die zur Auffindung des benannten Zeugen dienen könnten:

Die oben benannte Person weiss über die folgenden Tatsachen Bescheid:

Arbeitsbedingungen im Werk Auschwitz

Diese Tatsachen sind aus folgenden Gründen erheblich für die
Verteidigung:

25. März 1948

(Datum)

A. Seidl

Unterschrift des Verteidigers

Dr. Alfred Seidl, Rechtsanwalt
Beschluss des Gerichtshofes

1657

Vorsitzender Richter

MILITARY TRIBUNALS

Nurnberg, Germany

Tribunal VI
UNITED STATES OF AMERICA

Against

Karl Krauch et al.

FILED 29 March 1948 with
SECRETARY GENERAL
for Military Tribunals
Defence Center

364

Defendant's Application for Defense for Witness ①

TO: The Secretary General, Military Tribunal:

I, Dr. Alfred Seidl attorney for

Dr. Walther Duerrfeld, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Otto Wolter

Occupation and last known location:

Master-smith, Bitterfeld, Dessauerstr. 50

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Working conditions in the Auschwitz plant.

These facts are relevant to the defense for the following reasons:

25 March 1948
(Date)

Dr. Seidl

PROSECUTION AND
DEFENSE NOTIFIED

Signature of Defendant's Counsel
Secretary of Tribunal

Ernst Hake
Presiding Judge.

7 April 1948

1658

MILITÄRGERICHTSHOF
Munster, Deutschland
Tribunal VI

VEREINIGTE STAATEN VON AMERIKA

gegen
Beschlagnahme

Karl Krauch u.a. (Fall Nr. 6)

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Alfred Seidl Verteidiger fuer Dr. Walther Duerrfeld

, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Otto W o l t e r , Schmiedemeister

Beruf und wohlbekannter Wohnort:

Bitterfeld, Dessauerstrasse 50

Walters Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person wies ueber die folgenden Tatsachen Bescheid:

Arbeitsbedingungen im Werk Auschwitz

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

25. Maerz 1948

(Datum)

Alfred Seidl

Unterschrift des Verteidigers
Dr. Alfred Seidl, Rechtsanwalt
Beschluss des Gerichtshofes

1659

Vorsitzender Richter

FILED 29 Mar 48 With
SECRETARY GENERAL
for Military Tribunals
Defense Center

364
(2)

MILITARY TRIBUNALS VI
Durnberg, Germany

FILED 30 Mar 48 with
1948 Contain
SECRETARY GENERAL
for Military Tribunals
Defense Center

UNITED STATES OF AMERICA

365

Against

Krauch & others

(1)

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunals:

I, Dr. Erich Berndt attorney for W. R. Mann

hereby request that follow-

(Name of Defendant)

ing person to summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Karl Weigandt, former I. G. Direktor

Occupation and last known location:

Bad Soden, Koenigsteiner Str. 68

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

personality of W. R. Mann

These facts are relevant to the defense for the following reasons:

character of the defendant

Prosecution's answer of 30 March 1948:

No objection.

30. March 1948

PROSECUTION AND
DEFENSE NOTIFIED

30 Mar 48
Contain

D. A. Sprecher
Chief, Barben Trial Team

Signature of Defendant's Counsel

Decision of Tribunal

Presiding Judge.

1660

30 Mar 1948

MILITÄRGERICHTSHOF VI
Nürnberg, Deutschland

FILED 29 Mar. with
SECRETARY GENERAL
for Military Tribunals
Defense *Chick*

VEREINIGTE STAATEN VON AMERIKA

gegen

Kraus u. a.

365

(2)

Antrag eines Angeklagten zur Zeugenvorladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Erich Bernat, Verteidiger für W. B. Mann

, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Karl Weigandt

Beruf und bekanntester Wohnort:

Direktor I. G. Farbenind., Frankfurt/M. Königsteiner Str. 68
Bad Soden

Weitere Angaben die zur Auffindung des benannten Zeugen dienen können:

Die oben benannte Person weise über die folgenden Tatsachen Bescheid:

Allgemeines über die Persönlichkeit von Mann

Diese Tatsachen sind aus folgenden Gründen erheblich für die
Verteidigung:

Entlastung

24. 3. 48

(Datum)

Bernat
Unterschrift des Verteidigers

Beschluss des Gerichtshofs

1661

Vorsitzender Richter

MILITARY TRIBUNALS

Potsdam, Germany

UNITED STATES OF AMERICA

Against

Krauch et al

FILED 31 March 48
SECRETARY GENERAL
for Military
Defense Council

366

(1)

Defendant's Application for Orders for Witnesses

TO: The ~~Secretary~~ General, Military Tribunal:

I, Dr. Karl Hoffmann

attorney for

Dr. Erich von der Heyde

(Name of Defendant)

, hereby request that follow-

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Werner Grothmann

Occupation and Last Known Location:

Assistant of Hitler, at present Justice Jail

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Position of honorary leaders

These facts are relevant to the defense for the following reasons:
Count IV of the indictment,

As stipulated by the Prosecution - 1 April 48
A.A. Procher

30 March 1948

(Date)

(s) Dr. Hoffmann

Signature of Defendant's Counsel

Decision of Tribunal

Approved

Christoph Thiele
Presiding Judge.

7 Apr 1948
69266

PROSECUTION AND
DEFENSE NOTIFIED

8 April 48
AB

MILITÄRGERICHTSHOF
Wehrberg, Deutschland
VI

VEREINIGTE STAATEN VON AMERIKA

gegen
Krauch u.a.

✓
366
①

Antrag eines Angeklagten zur Zeugenverladung

In dem Gesamtsachverhalt des Militärgerichtshofes:

Ich, Dr. Karl Hoffmann Verteidiger fuer _____

Dr. Erich von der Heyde, beantrage hiermit, dass die
(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Werner Grothmann

Beruf und Lebensbekannter Wohnort:

Adjutant bei Himmler, bereits im Gefangenschafts

Weitere Angaben die zur Auffindung des bezeichneten Zeugen dienen koennen:

//////////

Die oben benannte Person wies ueber die folgenden Tatsachen Bescheid:
Stellung von KZ-Inspektoren.

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Anklagepunkt IV

30. Maerz 1948

(Datum)

Unterschrift des Verteidigers

Beschluss des Gerichtshofes

Vorsitzender Richter

367
①

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
31 MARCH 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

FILED 31 Mar 1948 with
Secretary General
for Military Tribunals
Case No. 6
D.C. Center

On consideration of the application of Dr. Karl Hoffmann, counsel for the Defendant Otto Ambros, supported by letters from His Eminence, the Bishop of Speyer and the Vicar of St. Trinity at Ludwigshafen, it is

ORDERED; that

The Tribunal hereby gives its consent to the Defendant Otto Ambros attending the ceremonies incident to the First Communion of his nine-year old daughter, Ursula, at Saint Trinity Church, Ludwigshafen-on-the-Rhine, on Sunday, 4 April 1948, subject, however, to the availability of transportation facilities and such conditions and restrictions as the military authorities may see fit to impose in the interest of security.

Curtis G. Drake
CURTIS G. DRAKE
Presiding

Dated this 31st day of March 1948

PROSECUTION NOTIFIED
31 March 1948 HOK

DEFENSE NOTIFIED

367
②

Dr. Karl Hoffmann
Defense Counsel

Burnberg 19 March 1948

To
Military Tribunal VI
via Secretary General
Burnberg

In the enclosure I, counsel for defendant Dr. Otto Ambros, am
sending you a letter from

His Eminence, the Bishop of Speyer, and one from
the Rev. Albert Maus, Ludwigshafen.

In both these letters it is requested defendant Otto Ambros be granted
leave of absence to see his daughter who will receive Holy Communion
for the first time.

(s) Dr. Hoffmann

1665

Case 6

367
(3)

Bishop of Speyer

Speyer 11 March 1948

C E R T I F I C A T E

to be submitted to the Military Tribunal VI
in the Palace of Justice, Nurnberg.

Referring to the official certificate of the Catholic
Vicariate St Trinity in Ludwigshafen, dated 11 March 1948, I warmly
recommend the request for a short leave to be granted to

Herr Dr. Otto AMERCS, Ludwigshafen, in order to enable him
to attend the Holy Communion ceremonies of his daughter Ursula on
White Sunday, 4 April 1948.

I therefore request in the interest of the child and in
consideration of the stricken father a short leave of absence be
granted.

(s) + Joseph Wendel

Stamp

Bishop of Speyer

Catholic Vicarage
Saint Trinity
Ludwigshafen on Rhine

Ludwigshafen 11 March 1948

To Military Tribunal VI
in the Palace of Justice
in Nurnberg, Germany.

As is known to me, Rev. Albert Maue of the Catholic Vicarage of Saint Trinity in Ludwigshafen on the Rhine, Herr Dr. Otto Ambros has been indicted in Nurnberg as a member of the Vorstand of the former IG-Farben industry.

His 9 years old daughter Ursula belongs to ^{the} circle of my communicants this year. In view of this event which is of so great an importance for the religious development of the child, I respectfully submit to the High Tribunal the urgent request that Dr. Otto Ambros be given leave of absence for this day enabling him to attend the church ceremonies. In substantiation of my request I would like to state that, for spiritual reasons, it will be rather important for the unburdened child if her peace of mind should be attended with an external peace for this day.

Ludwigshafen on Rhine
11 March 1948

Stamp

Catholic Vicarage
Saint Trinity
Ludwigshafen on Rhine
Albert Maue, Vicar

367
(5)

Dr. Karl Hoffmann
Defense Counsel

Nürnberg, den 19.III.1948

An den
Militärgerichtshof VI
Über den Herrn Generalsekretär
Nürnberg

In der Anlage überreiche ich als Verteidiger des Angeklagten
Dr. Otto A m b r o s ein Schreiben

Seiner Eminenz des Bischof von Speyer und ein Schreiben
des Hochwürden Pfarrer Albert Maus, Ludwigshafen.

In beiden Schreiben wird die Bitte ausgesprochen, dem
Angeklagten Otto A m b r o s zur Erstkommunion seiner
Tochter Urlaub zu gewähren.


(Hoffmann)

B e s c h e i n i g u n g
zur Vorlage an das Hohe Tribunal des Militärge-
richtshofes VI im Justizpalast in N ü r n b e r g.

Unter Bezugnahme auf die antliche Bescheinigung
des katholischen Pfarramtes St.Dreifaltigkeit in Ludwigs-
hafen vom 11.März 1948 wird die Bitte um kurzfristige Be-
urlaubung des

Herrn Dr. Otto A m b r o s aus Ludwigshafen
zwecks Teilnahme an der Erstkommunionfeier seiner Tochter
Ursula am Weifen Sonntag, den 4.4.1948 von hier aus wärm-
stens befürwortet.

Ich bitte deshalb, im Interesse des Kindes und
auch in Rücksichtnahme auf den betroffenen Vater eine
kurzfristige Beurlaubung bewilligen zu wollen.



+ Joseph Wendel.

Bischof von Speyer.

Kath. Pfarramt
St. Dreifaltigkeit
 Ludwigshafen a. Rh.

Ludwigshafen, den 11. März 1948

367

⑦

An das Hohe Tribunal des Militär-
 gerichtshofes VI im Justizpalast in
 N ü r n b e r g, Deutschland.

Wie mir, Pfarrer Albert M a u s der katholischen Pfarrei
 St. Dreifaltigkeit in Ludwigshafen am Rhein, bekannt ist,
 ist Herr Dr. Otto AMBROS als Vorstandsmitglied der ehe-
 maligen I.G. Farbenindustrie in Nürnberg angeklagt.

Seine neunjährige Tochter Ursula zählt dieses Jahr in den
 Kreis meiner Erstkommunikanten. In Anbetracht dieses für
 die religiöse Entwicklung des Kindes so bedeutenden Ereig-
 nisses erlaube ich mir an das Hohe Gericht die ergebene
 aber auch dringende Bitte zu richten, Herrn Dr. Otto
 AMBROS für diesen Tag einen Urlaub zu gewähren, der ihn in
 die Lage versetzt an den kirchlichen Festlichkeiten teil-
 zunehmen. Ich darf meine Bitte damit begründen, daß es aus
 seelsorgerlichen Gründen für das unbeschwerte Kind von
 nicht zu unterschätzender Bedeutung sein wird, wenn sich
 zu seinem Seelenfrieden für diesen Tag auch ein väterlicher
 Friede gesellen würde.

Ludwigshafen am Rhein,
 den 11. März 1948

Kath. Pfarramt St. Dreifaltigkeit
 Ludwigshafen a. Rh.



Albert Maus, Herrm.

CERTIFICATE OF COMMISSIONER

I, JAMES G. MILROY, AGO #B-397399, hereby certify that I am a duly appointed, qualified and acting Commissioner, to take the testimony of witnesses under Order of Tribunal No. 6, in the case of United States of America vs Krauch et al; that pursuant to said Order, upon the dates hereafter listed, I have supervised the taking of testimony of witnesses examined before me, and said testimony has heretofore been properly recorded, reported and filed in the Office of the Secretary General and now constitutes a part of the official transcript of proceedings in the above case; and the dates of such examinations, names of witnesses and pages of the said official transcript are as follows:

<u>Date</u>	<u>Name of Witness</u>	<u>Official Transcript</u>
12 December, 1947	Paul H. Haeni	4577-4595
15 December, 1947	Karl Wolff	4596-4657
15 December, 1947	Gustav Schlotterer	" "
17 December, 1947	Kurt Krugger	4692-4710
9 January, 1948	Adolf Hoehle	4946-5024
9 January, 1948	Willi Dagne	" "
9 January, 1948	Karl Amerd	" "
17 January, 1948	Alfred Zaun	5470-5512
17 January, 1948	Perry Broad	" "
6 February, 1948	Josef Johan	6826-6881
7 February, 1948	Franz Rottenberg	6957-6979
26 February, 1948	Noack Treister	7694-7732
27-28 February, 1948	Rene Balandier	7926-7963
16 March, 1948	Fritz Goernert	9288-9305
16-17 March, 1948	Gerhard Ritter	9305-9358
17 March, 1948	Heinrich Van Beek	9359-9376
18 March, 1948	Dr. Charles Bendel	9584-9616b

I further certify that the aforesaid transcript pages comprise a full, true and correct report of said proceedings, testimony and evidence heard and recorded at proceedings before said Commissioner.

Dated at Nurnberg, Germany March 31, 1948

James G. Milroy
Commissioner of Tribunal No. 6

FILED 31 March 1948

65m
Secretary General
for Military Tribunals
Nürnberg, Germany

369
①

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
31 MARCH 1948

THE UNITED STATES OF AMERICA :
- vs - :
CARL KRAUCH, et al., :
Defendants :

FILED 31 Mar 1948
Secretary General
Case No. 6
Tribunale
Nürnberg

ORDER

The request filed by Dr. Flasehner, Counsel for Defendant Bueteffisch, on 24 March 1948, asking that time for delivery of documents to Defense Center be extended to 26 April 1948, has been duly considered; it is the judgment of the Tribunal that the privilege of having documents processed by the Defense Center is amply protected in the order heretofore made by the Tribunal in that regard. Inasmuch as evidence on behalf of Defendant Bueteffisch has already been presented subject to the reservation of right of submission of additional documents, the Tribunal now denies said request but affirms its assurance that it will consider and pass upon any request for the processing of additional documents if and when they are ready for processing and written request to the Tribunal for processing such documents is made in accordance with the orders of the Tribunal dated 27 February 1948 and 22 March 1948.

Curtis G. Shaker

CURTIS G. SHAKER
Presiding

Dated this 31st day of March 1948.

DEFENSE NOTIFIED

31 March 1948 JOK
PROSECUTION NOTIFIED

*See Court Transcript of 27 February 1948 Afternoon and
22 March 1948 Morning for Tribunal rulings referred
to in last sentence above.*

*Barbara Skinner Macdellan
1672
Chief, Court Archives*

369
②

Dr. Hans Flaechnner
Berlin

24 March 1948
at present: Murnberg,
Kontomergarten 4

To
The Secretary General
Military Tribunal VI
Murnberg

1600
FILED 24 Mar 1948 With
Secretary General
for Military Tribunal
Defense Center

Judge Merrell informed me in a memorandum of 19 March that I have to submit the rest of my documents not later than April 1. For personal reasons I request a prolongation of 3 weeks. At the present time I am ill (heart muscle disease) and, in the physician's opinion, completely unable to work. I therefore cannot undertake the necessary steps (trips to see affiants etc) to secure the still missing documentary material and I have to wait until the physician permits me to make such trips without endangering my health. It cannot be seen at the present moment when this will be possible. I therefore should appreciate if permission would be given me to submit the rest of the documents 3 weeks after the generally set day, 5 April, to wit 26 April 1948.

(s) Dr. Hans Flaechnner

DR. HANS FLÄCHSNER

RECHTSANWALT UND NOTAR

Bürozeit:
9-12 Uhr, 2-5 Uhr
Sprechstunde nach Vereinbarung

Bankverbindung:

Leibnizbank Charlottenburg 4, Bismarckstr. 48-52
Postfach-Konto: Berlin Nr. 1062 49

369
✓ ③
24. März 1948.
① BERLIN-CHARLOTTENBURG 2, den
Hardenbergstraße 7 (Nähe Knie)
(U-Bahn Knie - S-Bahn Zoo)
Telefon: Büro 220171 - Privat 245884

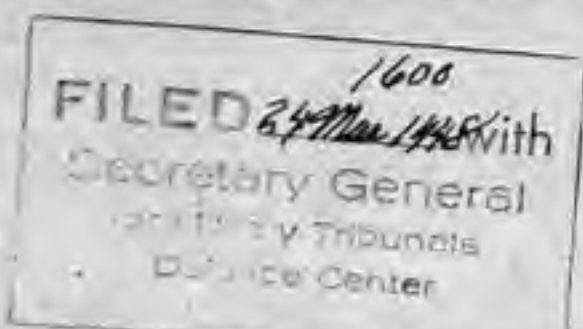
jetzt: Nuernberg, Kontumazgarten 4.

An den

Herrn Generalsekretär

Military Tribunal VI

Nuernberg.



Durch ein Memorandum vom 19. März teilt mir Herr Richter Merrell mit, dass die von mir noch nachzureichenden Dokumente spätestens am 1. April eingereicht sein müssen. Ich bitte aus persönlichen Gründen um eine Verlängerung dieser Frist um 3 Wochen. (Herzmuskelkrankung)
Ich bin zur Zeit erkrankt/und nach Ansicht des Arztes völlig arbeitsunfähig. Ich kann daher im Augenblick die Schritte die notwendig sind, um das noch fehlende Dokumentenmaterial zu beschaffen (Reisen zu Affianten etc.) nicht unternehmen und muss damit solange warten, bis der Arzt es mir gestattet, derartige Reisen zu unternehmen, ohne dass eine Gefährdung meines Gesundheitszustandes zu befürchten ist. Wenn dies der Fall sein wird, ist zur Zeit noch nicht zu übersehen. Ich wäre daher dankbar, wenn aus diesen Gründen es mir gestattet würde, die Einreichung der restlichen Dokumente 3 Wochen nach dem allgemein festgesetzten Stichtag, jetzt den 5. April, also am 26. April 1948 vornehmen zu dürfen.

Hans Flächner
(Dr. Hans Flächner)

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
29 MARCH 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUTH, et al.,

Defendants.

FILED *3 Mar 48* with
Secretary General
Case No. 6
1st Military Tribunals
Defense Center

ORDER

It having been made to appear to the Tribunal that the mother of the Defendant Georg von Schnitzler died on the twenty-seventh day of March,

IT IS ORDERED by the Tribunal that said defendant is hereby granted leave to absent himself from the trial and to attend the funeral of his said mother at Bad Godesberg, near Bonn in the British Zone, for a reasonable time or until the further order of the Tribunal, subject, however, to such conditions and restrictions as may be imposed by the military authorities for the purposes of security.

Curtis G. Sharr
CURTIS G. SHARR
Presiding

Dated this twenty-ninth day of March 1948

DEFENSE NOTIFIED

31 March 1948 CLK
PROSECUTION NOTIFIED

MILITARY TRIBUNALS

Furnberg, Germany

UNITED STATES OF AMERICA

Against

Krauch et al.

FILED 1 April 1948 with
SECRETARY GENERAL
for Military Tribunals
Defense Center

371

(1)

Defendant's Application for Order for Witness

TO: The Secretary General, Military Tribunal at:

I, Dr. Hans Pribilla attorney for

Lautenschlaeger, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Dr. Albert Demnitz

Occupation and last known location:

Marburg a.d. Lahn, Rotenberg 52

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Typhus experiments

These facts are relevant to the defense for the following reasons:
Count 3 of the indictment

31 March 1948

(Date)

(s) Dr. Hans Pribilla

Signature of Defendant's Counsel

Decision of Tribunal

Approved
Presiding Judge.

1676

PROSECUTION AND
DEFENSE NOTIFIED

8 April 48

MILITÄRGERICHTSHOF
Nürnberg, Deutschland

VEREINIGTE STAATEN VON AMERIKA

gegen

Krauch und andere

Antrag eines Angeklagten zur Zeugenvernehmung

an den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Hans Friebilla, Verteidiger für Lautenschlager

, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Dr. Albert Demnitz

Beruf und bekannter Wohnort:

Harburg a.d. Elbe, Rotenberg 52

Weitere Angaben die zur Auffindung des benannten Zeugen dienen könnten:

Die oben benannte Person weist unter die folgenden Tatsachen Bescheid:

Flackfleherversuche

Diese Tatsachen sind aus folgenden Gründen erheblich für die
Verteidigung:

Punkt III der Anklage

31.3.1948

(Datum)

Unterschrift des Verteidigers

Beschluss des Gerichtshofes

Vorsitzender Richter

1677

62266

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
2 APRIL 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

Case No. 6

ORDER

FILED 2 April 48 with
Secretary General
for Military Tribunal
Defendant Krauch

The request filed by Dr. Hoffmann, Counsel for Defendant von der Heyde, on 19 March 1948, asking that time for delivery of documents to Defense Center be extended to 15 April 1948, has been duly considered; it is the judgment of the Tribunal that the privilege of having documents processed by the Defense Center is amply protected in the order heretofore made by the Tribunal in that regard. The Tribunal now denies said request but affirms its assurance that it will consider and pass upon any request for the processing of additional documents if and when they are ready for processing and request to the Tribunal for processing such documents is made in accordance with the orders of the Tribunal dated 27 February 1948 and 22 March 1948.

Curtis G. Drake
CURTIS G. DRAKE
Presiding

Dated this 2nd day of April 1948

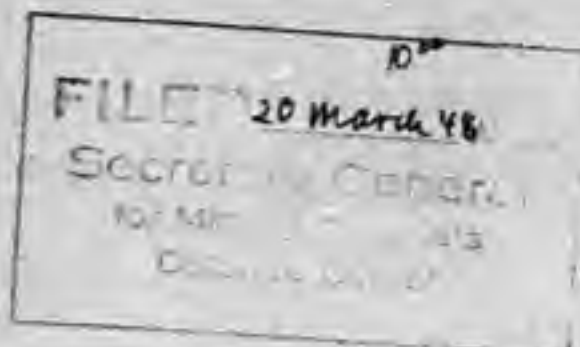
DEFENSE NOTIFIED
2 April 48
~~20 March 1948~~
PROSECUTION NOTIFIED

See Court Transcript of 27 February 1948 Afternoon and
22 March 1948 Morning, for Tribunal rulings referred
to in last sentence above. 1678
Barbara Skinner Mandellant
Chief Court Archivist

Dr. Karl Hoffmann
Defense Counsel

Munberg 19 March 1948

To
Military Tribunal VI
via Secretary General
Munberg



As Defense Counsel for Dr. Erich von der Heyde I ask to extend the time for the introduction of document books for the main case of the Defense to 15 April 1948:

Substantiation: For the defendant von der Heyde the Defense will offer documents dealing with general theses such as knowledge about crimes against humanity or the question of membership in a criminal organization.

The documents to be introduced in this connection are mostly to be obtained from persons who are in different Internment Camps in Germany.

This takes much time.

In spite of most serious efforts the Defense was not in a position yet to make a complete picture of it.

Regarding the question of mimeographing and translation of the documents here in the Palace of Justice, the Defense, without assuming to be authoritative, is of the opinion that mimeographing and translation of the documents for the defendant von der Heyde will practically not be possible before 15 April due to the work connected with the 7 preceding defendants.

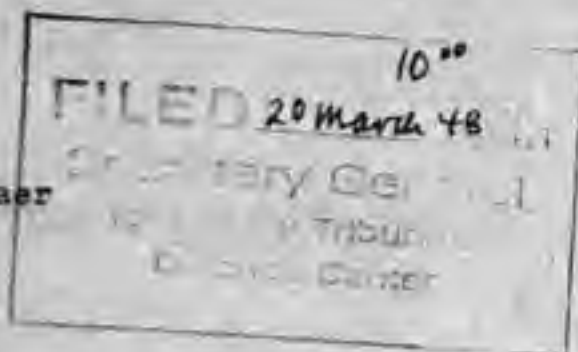
(s) Dr. Hoffmann

Dr. Karl Hoffmann
Defense Counsel

Nuernberg, den 19.III.1948 ③

372

An den
Militärgerichtshof VI
ueber den Herrn Generalsekretaer
N u r n b e r g



Als Verteidiger des Angeklagten Dr. Erich von der Heyde beantrage ich die Frist zur Einreichung der Dokumenten-Bücher fuer den Hauptfall der Verteidigung bis zum 15. April 1948 zu verlaengern.

Begründung: Fuer den Angeklagten von der Heyde werden von der Verteidigung Dokumente eingefuehrt, die allgemeine Themen, wie Kenntniss ueber Verbrechen gegen die Menschlichkeit oder die Frage der Zugehoerigkeit zu einer verbrecherischen Organisation behandeln.

Die Dokumente, die hierzu eingefuehrt werden, muessen zum grossen Teil von Personen eingeholt werden, die sich in den verschiedensten Internierungslagern Deutschlands befinden. Das erfordert eine erhebliche Zeit.

Es war der Verteidigung trotz staerkater Bemuehungen noch nicht moeglich, hierzu ein abgerundetes Bild herzustellen.

Zur Frage der Vervielfaeltigung und Übersetzung der Dokumente hier im Gerichtsgebäude möchte die Verteidigung, ohne sich ein Urteil anmassen zu wollen, annehmen, dass infolge der noch zu bearbeitenden 7 vorgehenden Angeklagten eine Vervielfaeltigung und Übersetzung der Dokumente des Angeklagten von der Heyde vor dem 15. April praktisch nicht moeglich ist.


(Hoffmann)

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
2 APRIL 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

FILED *2 April 1948*
Secretary General
for Military Tribunals
Defense Center

ORDER

ORDERED that the petition of Dr. Heinrich von Roepert, counsel for the Defendant Carl Krauch, dated 25 March 1948, asking leave to withdraw from the Secretary General's files the original certificates attached to his Exhibit 161 (Document Number 118, Krauch Document Book VIII) and to substitute for said certificates copies thereof, duly certified by said counsel, is now granted.

Curis G. Drake
CURTIS G. DRAKE
Presiding

Dated this 2nd day of April 1948

DEFENSE NOTIFIED

2 April 1948 LOR

PROSECUTION NOTIFIED

Dr. Heinrich von Rospat
assistant-defense-counsel
for defendant KRAUCH

Nuernberg, March 25, 1948
Palace of Justice
room 542

To: The Presiding Judge of
Military Tribunal Nr.VI

Palace of Justice

I herewith beg to submit the following request:

In course of introducing the Krauch-Documents-Book Nr.VIII,
I have handed over to the Secretary General the Krauch-document
Nr.112, Exhibit-Nr.161. Attached to the original affidavit of
the affiant Dr.Leonid ANDRUSOW were some original certificates,
which had been given to Dr.Andrusow by Russian foreign laborers
for reasons of gratitude. By an error, Dr.ANDRUSOW handed over
these original certificates to me as annexes to his affidavit,
given by him for the defendant Dr.KRAUCH, without having taken
copies of these documents.

Dr.ANDRUSOW now applies to me with the request to return these
original documents to him, because he is in urgent need of them
for the purpose of his denazification and the Russian people
can no more be reached in Germany.

I now beg to ask the Tribunal to bring about a special Court-
Order to the effect to exchange the original certificates,
attached to the affidavit of Dr.ANDRUSOW (Krauch-Doc.Nr.112,
Krauch-Exhibit Nr.161, Krauch-Doc.Book Nr.VIII) and submitted
to the Court, by copies certified by me.

For H. v. Rospat
H. Volfgang Finkbeiner
assistant Defense Counsel
1682

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Against

_____ and others

Nuernberg, Germany

Case Number _____

Tribunal No. _____

ORDER APPOINTING ASSISTANT COUNSEL

FILED 2 April 48

Secretary General

Defense Counsel

Dr. ~~Reichman~~

, counsel for

~~van der Rypke~~

one of the above-named defendants, having requested this Tribunal

that

Dr. Josef Koenig

, whose address is

, be entered and approved

Palace of Justice, Room 37

on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said

Dr. Josef Koenig

do,

and he hereby is, approved as assistant attorney for said

to represent him with respect to the

~~van der Rypke~~

charges pending against him under the indictment filed herein.

Dated: 2 Apr 1948

Levin J. Gask

Presiding Judge

PROSECUTION NOTIFIED
2 April 1948

DEFENSE NOT

MILITARY TRIBUNALS

UNITED STATES OF AMERICA

Against

Krauch, and others

Munich, Germany

Case No. VI

Military Tribunal, VI

APPLICATION FOR APPROVAL OF
ASSISTANT DEFENSE COUNSEL

Came now Dr. Hoffmann and states to the Tribunal that
he is attorney for Kern Dr. v. d. Heyde one of the de-
fendants in the matter of United States of America vs. Krauch
et al. That it is necessary that he have an assistant
counsel in this matter.

WHEREFORE, Dr. Hoffmann makes application to the Tri-
bunal for the approval of Dr. Josef Kessel (this new Defense Counsel
in this matter - Case 9)
to assist him with respect to the charges pending against
 in the above-captioned indictment.

Dated: 1 April 1948

[Signature]

MILITARY TRIBUNALS
UNITED STATES OF AMERICA
Against

Nuernberg, Germany
Case Number _____
Tribunal No. _____

_____ and others

FILE 2 April 1948

CRIME APPOINTING ASSISTANT DEFENSE COUNSEL

Secretary General
for the Tribunal
Defense Counsel

Dr. Hoffman, counsel for

Otto Ackers

one of the above-named defendants, having requested this Tribunal

that **Dr. Hermann Muesel**, whose address is

, be entered and approved

Palace of Justice, Room 550 a

on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said **Dr. Hermann Muesel** be,

and he hereby is, approved as assistant attorney for said

Otto Ackers

to represent him with respect to the

charges pending against him under the indictment filed herein.

Dated: 2 Apr 1948

Quentin G. Harle
Presiding Judge

PROSECUTION NOTIFIED
2 April 1948

DEFENSE NOTIFIED

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Nuremberg, Germany

Case No. VI

Military Trib. No. 6

Against

Krauch, and others

APPLICATION FOR APPROVAL OF
ASSISTANT DEFENSE COUNSEL

COUNSEL NOW Dr. Hoffmann and states to the Tribunal that
he is attorney for Ottobros & Hahnemann one of the de-
fendants in the matter of United States of America vs. Krauch
, et al. That it is necessary that he have an assistant
counsel in this matter.

THEREFORE, Dr. Hoffmann makes application to the Tri-
bunal for the approval of Dr. Hermann Muesel (till now Ass. defense counsel / of Ter Meer) as his assistant counsel
to assist him with respect to the charges pending against the above
named in the above-named indictment.

Date: 23.III.1948

Dr. Hoffmann.

DR. ERICH BERNDT
RECEIVED
(16) FRANKFURT A. M.
STATION 11
TELEFON 4767

(13c) MORNBERG

JUSTICE PALACE
ANGLO-AMERICAN CASES
REPRESENTATIVE

375
③
Furnberg, 1 April 1948

To
Defense Center
Military Tribunal
Justice Palace

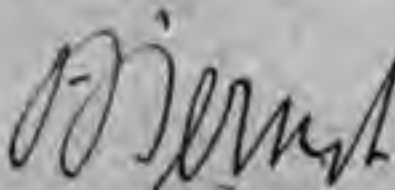
Furnberg.

Re: My assistant Dr. Hermann Muenzel.

I herewith state, that my former assistant

Dr. Hermann Muenzel

is no longer working for me nor for my defendant's Mann and ter Meer.



Dr. Erich Berndt

Defense Counsel

1687

Page 6

376
①

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Nuernberg, Germany

Case Number 4

Against

Tribunal No. 11

Brown and others

FILED 2 April 1948

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Kalte

, counsel for Brown

one of the above-named defendants, having requested this Tribunal

that Dr. Heinrich Buehler, whose address is

Feld, Kirchstr. 1, be entered and approved

on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Heinrich Buehler be,
and he hereby is, approved as assistant attorney for said

Brown to represent him with respect to the
charges pending against him under the indictment filed herein.

Dated: 2 Apr 1948

Ernest J. Hawk
Presiding Judge

PROSECUTED

TESTIFIED

2 April 1948

DEFENSE

ED

RESTRICTED

376

(2)

OFFICE OF MILITARY GOVERNMENT (US)
SECRETARIAT FOR MILITARY TRIBUNALS

KORNBURG, GERMANY
APO 946 A, U.S. ARMY

DEFENSE CENTER

9 April 1948

SUBJECT: Heinrich Bendus

TO : Secretary General, Military Tribunals

1. Application of Heinrich Bendus, prospective second assistant in Case 6, has been screened with the following findings:

Party Member 1933-1945

Subject held no office in above organization and has been placed in Category V by his Spruchkammer.

2. Approval subject to security clearance has already been granted by the Tribunal under date of 2 April, 1948.

Telephone: 61550

Robert G. Schaefer
Robert G. Schaefer
Major MI
Chief Defense Center

*Case 6
Std 2
Case 6*

1689

RESTRICTED

Case 6

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Nuremberg, Germany 1st April 1948

Case No. VI

Military Trib. No. VI

Against
Krauch, and others

APPLICATION FOR APPROVAL OF
ASSISTANT DEFENSE COUNSEL

Cross now Dr. Nelte and states to the Tribunal that
he is attorney for Prof. Hoerlein one of the de-
fendants in the matter of United States of America vs. Krauch
& others, et al. That it is necessary that he have an assistant
counsel in this matter.

WHEREFORE, Dr. Nelte makes application to the Tri-
bunal for the approval of Heinrich Handus as his assistant counsel
to assist him with respect to the charges pending against Prof.
Hoerlein in the above-named indictment.

Dated: 1st April 1948


Dr. Nelte

NUERNBERG, D. 5. 4. 46.

ILLNER J. G. CASE I SICK IN BED.
DIAGNOSIS. COLD.

FILED 7 April 48

F.T.

Secretary General
for Military Tribunals
Nürnberg, Germany

h. Handke

Case 6

1691

1691

over 48

228

Dr. Bärthel

0

FILED 24 July 1949
F-7
Secretary General
for the UN
Hamburg, Germany

In sick, No exercise, no work
for 3 days (Brisse)

$\frac{8}{18}$ 48.

Dr. J. J. J. J.

Room 89

Dr H. Schumacher

No waiting for
2 days because sick (Head Pains)

$\frac{8.}{10.}$ 98

Dr. Schumacher

UNITED STATES MILITARY TRIBUNALS
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
8 APRIL 1948, IN CHAMBERS

ORDER

1630

FILED *8 April 1948* with
Secretary General
Military Tribunals
Defense Center

On 28 March 1948, Rudolph Aschenauer, as counsel for defendant Otto Ohlendorf (Case 9, Tribunal II) and defendant Heinrich Gottmann (Case 6, Tribunal VI), filed with the Secretary-General for the consideration of the Supervisory Committee of Presiding Judges a petition asking that all trials now pending before the United States Military Tribunals at Nurnberg be immediately discontinued. We are asked to convene the judges of the Tribunals in a plenary session to pass upon said petition.

The petition is based upon the contention that Control Council Law No. 10 is no longer in effect because and on account of the alleged withdrawal of the Union of Soviet Socialist Republics from the Allied Control Council for Germany.

We have repeatedly pointed out that the jurisdiction of this Committee to convene a plenary session of the judges is limited by Article V B of Military Government Ordinance No. 7, as amended by Ordinance No. 11, to those instances where interlocutory or final rulings of the Tribunals are in conflict or are inconsistent. No such conflict or inconsistency is alleged in the petition.

The petition herein is, therefore, insufficient in substance to invoke the jurisdiction of the Committee. It is accordingly

ORDERED:

That the said petition be dismissed.

Rudolph Aschenauer
Executive Presiding Judge

W. C. C. L. L. L.
Presiding Judge, Tribunal II

W. C. C. L. L. L.
Presiding Judge, Tribunal III

W. C. C. L. L. L.
Presiding Judge, Tribunal IV

W. C. C. L. L. L.
Presiding Judge, Tribunal V

DEFENSE NOTIFIED

PROSECUTION NOTIFIED

379
③

Rudolf Aschauer
Counsel for defendants
Ohlendorf and Gattineau

Nurnberg 22 March 1948

cc

The Secretary General
U.S. Military Tribunal
Cases VI and IX

(stamp:)

1300

Filed 23 March 1948 with
Secretary General for
Military Tribunals
Defense Center

Subject: Request all US Military Tribunals in Nurnberg rule in a plenary session that all trials will be discontinued.

On 11 March 1948 I filed a petition asking for a plenary session of the judges of all the tribunals to declare Control Council Law No. 10 invalid.

On 17 March 1948 this petition was dismissed for the following reason:

"The jurisdiction of the supervisory Committee of Presiding Judges to convene a plenary session is limited by Article V-B of Military Government Ordinance No. 7 as amended by Ordinance No. 11 to those instances in which interlocutory or final rulings of the Tribunals are in conflict or are inconsistent.

Since it can be asserted that no Tribunal is competent to rule with respect to the invalidity of said Control Council Law No. 10, the said petition must be dismissed for want of jurisdiction."

This purely formal substantiation is a violation of the following fundamental legal principle:

A law invalid in substance or in procedure cannot escape review on the grounds that this is prohibited by a regulation connection therewith. Under all circumstances, the right and duty of a judicial review and therefore the duty of a judicial review with regard to every standard remains.

It must be pointed out in this connection that Military Tribunal III in its statements in the verdict against Altstoetter et al. likewise shared this point of view. In view of Soviet Russia's attitude in the Allied Control Council and in case of continued non-participation of

Soviet Russia in the session of the Allied Control Council, I again request a decision be reached in a plenary session of all Military Tribunals.

I raise the following fundamental question:

Does Soviet Russia's quitting the Control Council mean with respect to criminal law that she does no longer abide by the agreements for the common prosecution of the German war criminals. If so, then Soviet Russia's attitude justifies the petition for discontinuance of all trials pending before the U.S. Military Tribunals.

Substantiation:

On 8 May 1945 Germany signed the unconditional surrender. As early as 11 February 1945, the Allies (U.S.A., Gr.Brit., U.S.S.R.) had decided in Yalta:

"Art. 27 Joint policy with respect to the execution of the provisions of the unconditional surrender as soon as the German resistance will have been broken.

On 5 June 1945 the Allies (U.S.A., Great Britain, U.S.S.R. and France) released a declaration. It says in the preamble of this declaration:

"The representatives of the Supreme Commanding Authorities of the four Allies herewith assume supreme authority in Germany, all powers of the German Government inclusive.

Article 13 reads:

"In execution of the supreme authority in Germany which is assumed by the Governments....., the four Allied Governments will take measures which they deem necessary to ensure future peace and security". The Allies finally confirmed their intention jointly to turn the Nazi war criminals over to an expeditious and secure jurisdiction. (Department of State Publication No.2423, pages 10 and foll.)

In its verdict against Joseph Altstoetter (Verdict, German text page 13) Military Tribunal III stated:

"Now the Four Powers are providing by O.C.Law 10 for the punishment of German officials who, before the occupation of Germany, passed and enforced laws for the persecution of German nationals upon racial grounds. It appears that it would be equally difficult to justify such action of the Four Powers if the situation here is the same as the situation which existed in Poland under German occupation and if consequently the limitation of The Hague Convention were applicable. For this reason it seems appropriate to point out the distinction between the two situations. As we have attempted to show, the moral and legal justification under principles of international law which authorizes the broader scope of authority under O.C.Law 10 is based on the fact that the Four Powers are not now in belligerent occupation or subject to the limitations set forth in the rules of land warfare. Rather, they have justly and legally assumed the broader task in Germany which they have solemnly defined and declared, to wit: the task of reorganizing the German government and economy and of punishing persons who, prior to the occupation, were guilty of crimes against humanity committed against their own nationals."

Further on (pages 14/15, German text of the verdict):

"We sit as a Tribunal drawing its sole power and jurisdiction from the will and command of the four occupying powers".

The U.S. Military Tribunal V likewise stressed to be an Allied Tribunal. This means that the American judges derive their judicial authority from the existence of the Allied Control Council. On 20 March 1948, the Soviet Russian delegate in the Control Council left the session stating that "the Control Council does no longer exist as a governmental organ". Marshal Sokolowski did not content himself with the statement that he saw "no sense in continuing this session". The legal existence of the Allied Control Council is contingent on the participation

of the four Allied Powers, to wit: the United States of America, England, France, and the Soviet Union. The departure of one of the four powers therefore means the dissolution of the Allied Control Council. The Nurnberg Military Tribunal which constitutes an Allied Tribunal therewith loses the basis of its existence.

The fact that Soviet Russia quit the Allied Control Council means at the same time that the Soviet Union does not consider herself bound any longer to the agreements providing for a uniform policy of occupation and administration nor to the regulations aiming at the punishment of the German war criminals on a uniform basis. This means that, also for this reason, Control Council Law No. 10 is no longer applicable since the uniformity of Germany's administration by the Occupying Powers and the binding force of the law for the four Allied Powers are the prerequisite for the issuance and application of this legal standard.

(s.) Rudolf Aschenauer

Rudolf A s c h e n a u e r
Verteidiger der Angeklagten
Ohlendorf und Gattinen

379 →
⑥
Nuerberg, 22. Maerz 1948

An
den Herrn Generalsekretaer
am Amerikanischen Militaergerichtshof
in den Faellen VI und IX

Betr.: Antrag auf eine Plenarentscheidung
der Gerichte des Amerikanischen
Militaergerichtshofes Nuerberg
auf Einstellung saentlicher Ver-
fahren.

Ich habe am 11. Maerz 1948 die Einberufung einer Plenar-
sitzung erbeten mit dem Antrag, das Kontrollratgesetz
Nr. 10 nichtig zu erklaren.

Am 17. Maerz 1948 wurde dieser Antrag abgelehnt.

Die Begrueendung lautete:

"Die Zustaendigkeit des Ueberwachungsausschusses der
Gerichtspraesidenten, eine Plenarsitzung einzuberufen,
wird durch Artikel VB der Ordinance No. 7 der Militaer-
regierung, die durch Ordinance No. 11 abgeaendert ist,
auf diejenigen Faelle beschraenkt, in denen einstweilige
oder endgueltige Gerichtsentscheidungen widerspruchswort
oder unvereinbar sind.

Da behauptet werden kann, dass keinem Gerichtshof die
Entscheidung hinsichtlich der Ungueltigkeit des besag-
ten Kontrollratgesetzes Nr. 10 zusteht, muss der be-
sagte Antrag wegen Mangel an Zustaendigkeit abgewiesen
werden".

Diese rein formale Begrueendung verstoesst gegen den fundamen-
talen Rechtssatz:

es kann sich ein materiell oder formell unwirksames Gesetz
nicht dadurch der Nachpruefung entziehen, dass durch eine
mit ihm in Zusammenhang stehende Verordnung dies verboten
wird. Unter allen Umstaenden bleibt das Recht und die Pflicht
richterlicher Nachpruefung, ~~sonst~~ die pflicht richterlicher Nach-
pruefung einer jeden Norm gegenueber bestehen.

Es muss in diesem Zusammenhang hervorgehoben werden, dass sich auch der Militaergerichtshof Nr. III in seinen Ausfuehrungen im Urteil gegen Altstoetter u.a. zu dieser Ansicht bekannt hat. - In Anbetracht der gezeigtten Haltung Sowjetrusslands im Alliierten Kontrollrat und bei einer weiteren Nichtteilnahme der Sowjetunion an den Sitzungen des Alliierten Kontrollrats beantrage ich erneut eine Plenarentscheidung.

Ich werfe die grundsaeztliche Frage auf:

Bedeutet das Ausscheiden Sowjetrusslands aus dem Kontrollrat in strafrechtlicher Hinsicht das Verlassen der Uebereinkommen zur gemeinsamen Verfolgung der deutschen Kriegsverbrecher? Befahendenfalls rechtfertigt die Haltung der Sowjetunion den Antrag auf Einstellung saemtlicher Verfahren vor dem Amerikanischen Militaergerichtshof.

B e g r u e n d u n g:

Am 8.5.1945 wurde die bedingungslose Kapitulation deutscherseits unterzeichnet. Bereits am 11. 2. 1945 hatten die Alliierten (USA, Gr.Brit., UdSSR) in Yalta beschlossen:

"Ziffer 2: Gemeinsame Politik bezueglich der Durchfuehrung der Bestimmungen der bedingungslosen Kapitulation, sobald der bewaffnete deutsche Widerstand gebrochen sei".

Am 5.6.1945 erliessen die Alliierten (USA, Gr.Brit., UdSSR., Frankreich) eine Erklaerung. In der Praesambel dieser Erklaerung ist gesagt:

"Die Vertreter der obersten Kommandobehoerden der vier Alliierten uebernehmen hiermit die oberste Regierungsgewalt in Deutschland einschliesslich aller Befugnisse der deutschen Regierung".

Artikel 13 lautet:

"In Ausuebung der obersten Regierungsgewalt in Deutschland, die von den Regierungen uebernommen wird, werden die

vier alliierten Regierungen die Massnahmen treffen, die sie zum kuenftigen Frieden und zur kuenftigen Sicherheit fuer erforderlich halten". Schliesslich bekraeftigen die Alliierten ihre Absicht, gemeinsam, die Nazikriegsverbrecher einer schnellen und sicheren Gerichtsbarkeit zuzufuehren (Department of State publication No. 2423, p. 10 ff.). Der Militaergerichtshof Nr. III fuehrte in seinem Urteil gegen Joseph Altstoetter aus (Urteil deutscher Text, S. 13):

"Nun treffen die vier Maechte Vorkehrungen durch K.R.Ges. Nr. 10 fuer die Bestrafung von deutschen Beamten, die vor der Besetzung von Deutschland Gesetze erliessen und durchgefuehrt haben zur Verfolgung von deutschen Staatsbuergern aus rassistischen Gruenden. Es hat den Anschein, als sei es gleich schwer, eine solche Aktion der Vier Maechte zu rechtfertigen, wenn die Lage hier jener entspricht, die in Polen unter deutscher Besetzung bestand, und wenn infolgedessen die Beschraenkungen der Haager Konvention anwendbar waeren. Aus diesem Grunde scheint es angemessen, den Unterschied zwischen den beiden Situationen herauszuheben. Wir haben versucht die moralische und gesetzliche Berechtigung nach den Grundsuetzen des Voelkerrechts aufzuzeigen, welche Vollmacht gibt fuer den breiteren Rahmen der Autoritaet. Nach K.R.Ges. 10 gruendet sich diese auf die Tatsache, dass die Vier Maechte sich derzeit nicht im Zustand einer Besetzung im Zuge der Kriegfuehrung befinden oder Gegenstand der in den Regeln fuer die Landkriegfuehrung niedergelegten Beschraenkungen sind. Sie haben vielmehr recht- und gesetzmaessig die umfassendere Aufgabe in Deutschland uebernommen, die sie feierlich definiert und erklaert haben, das heisst, die Aufgabe der Reorganisierung der deutschen Regierung und Wirtschaft und der Bestrafung von Personen, die vor der Besetzung schuldig waren, Verbrechen gegen die Menschlichkeit gegen ihre eigenen Landsleute begangen zu haben". 1701

Ferner (Urteil deutscher Text, Seite 14/15):

"wir sprechen hier Recht als ein Gericht, das seine Befugnisse und Zuständigkeit allein aus dem Willen und der Befehlsgewalt der vier Besatzungsmächte herleitet".

Auch der Amerikanische Militärgerichtshof Nr. V betonte, er sei ein alliierter Gerichtshof. Dies bedeutet, dass die amerikanischen Richter ihre richterliche Machtbefugnis von dem Bestehen des Alliierten Kontrollrates schöpfen.

Am 20.3.1948 hat der sowjetrussische Vertreter im Kontrollrat die Sitzung verlassen und erklärt, der "Kontrollrat existiere nicht länger als Regierungsorgan".

Marschall Sokolowski begnügte sich nicht mit der Erklärung, er sehe "keinen Zweck in der Fortführung dieser Sitzung".

Das rechtswirksame Bestehen des alliierten Kontrollrates ist von der Teilnahme der vier Alliierten Mächte, d.h. der Vereinigten Staaten von Amerika, Englands, Frankreichs und der Sowjetunion, abhängig. Das Ausscheiden eines der vier Mächte bedeutet somit die Auflösung des Alliierten Kontrollrates. Damit entfällt für den Nürnberger Militärgerichtshof, der ein alliiertes Gericht darstellt, die Grundlage seines Bestehens.

Das Ausscheiden Sowjetrusslands aus dem Alliierten Kontrollrat bedeutet gleichzeitig, dass die Sowjetunion sich an die Abkommen nicht mehr gebunden betrachte, die eine einheitliche Besatzungs- und Verwaltungspolitik zum Ziele haben, damit auch die Bestimmungen, die eine Bestrafung der deutschen Kriegsverbrecher auf einheitlicher Basis bezweckten. Dies bedeutet, dass auch aus diesem Grunde das Kontrollratgesetz Nr. 10 nicht mehr anwendbar ist, da die Einheitlichkeit der Verwaltung Deutschlands durch die Besatzungsmächte und die Verbindlichkeit des Gesetzes für die vier Alliierten Mächte Voraussetzung für den Erlass und die Anwendbarkeit dieser Rechtsnorm sind.

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

Krauch et al.

FILED 9 April 1948 with
SECRETARY GENERAL
for Military Tribunal
Defense Counsel

380

①

Defendant's Application for Defense for Witness

TO: The Secretary General, Military Tribunal:

I, Rudolf Aschenauer attorney for _____

Dr. Heinrich Gattineau, hereby request that follow-
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Gustav Tschur

Occupation and last known location:

Aschau, Kra. Wehldorf, Factory

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Dr. Gattineau's behaviour during his activities in Pressburg
as managing director.

These facts are relevant to the defense for the following reasons:

See charges of the indictment.

8 April 1948

(Date)

(s) Rudolf Aschenauer
Signature of Defendant's Counsel

Decision of Tribunal

Presiding Judge.

13 Apr 1948

1703

DEFENSE NOTIFIED

19 April 48

VEREINIGTE STAATEN VON AMERIKA

gegen
Krauch u.a.

Antrag eines Angeklagten zur Zeugenvernehmung

An den Generalsekretär des Militärgerichtshofes:

Ich, Rudolf Aschensperger Verteidiger fuer
Dr. Heinrich Gattineau, beantrage hiermit, dass die
(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Gustav Tschur,

Beruf und Lebensbezug Wohnort:

Aschau Kre. Mauthausen, Fabrik

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

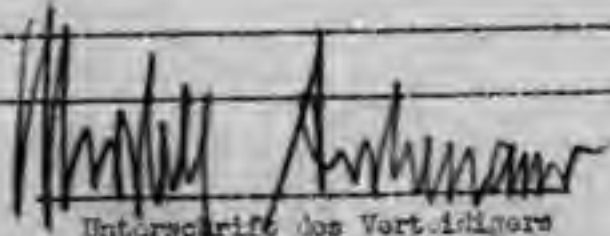
Die oben benannte Person wies ueber die folgenden Tatsachen Bescheid:

Verhalten Dr. Gattineau's waehrend seiner Pressburger Taetigkeit als
geschaeftsfuehrender Direktor

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

siehe Anklageschrift

6.8.1940
(Datum)



Unterschrift des Verteidigers

Beschluss des Gerichtshofs

1704

Vorsitzender Richter

Seite 6

Nurnberg, 2 April 1948

To the Secretary General
of the Military Tribunals
of Case VI and Case IX

FILED *April 11 1948* with
Secretary General
for Military Tribunals
DeJure Center

The Prosecution makes the following answer to Dr. Aschenauer's request of 22 March 1948 for a plenary session of all Tribunals to reconsider his previous petition of 11 March 1948, which had been dismissed.

(1) Initially, it may be pointed out that Dr. Aschenauer has misunderstood (perhaps due to an error in translation) the reason for the dismissal of his previous motion. Dr. Aschenauer states that his previous motion was dismissed since "no Tribunal is competent to rule with respect to the invalidity of said Control Council Law No. 10". In fact, the reason assigned by the Committee of Presiding Judges was "that there has been no determination with respect to the invalidity of said Control Council Law No. 10 by any Tribunal".

(2) Dr. Aschenauer has added nothing to his previous petition, which was denied. Control Council Law No. 10 is in full force and effect and its validity has not been questioned by any Tribunal.

FOR: TELFORD TAYLOR
Brig. General, USA
Chief of Counsel for War Crimes
BY: *Benjamin B. Ferencz*
Benjamin B. Ferencz
Executive Counsel

MILITÄRGERICHTSHOF
Munich, Deutschland

TRIBUNAL VI
VEREINIGTE STAATEN VON AMERIKA

gegen
FRANK and others

FILED 12 April 1948
SECRETARY GENERAL
for Military Trials
Defense Cases

382

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. F. W. Wagner, Verteidiger fuer Hr. Carl WURSTER

, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Pedrag V L A J ' C

Beruf und Lebensbekannter Wohnort:

Student der Medizin, Frankfurt/Germany

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Zeuge wird von der Verteidigung gestellt

Die oben benannte Person wies ueber die folgenden Tatsachen Bescheid:

Lebensbedingungen der Kriegsgefangenen beim Arbeitskommando

1. 008 B Ludwigshafen

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

mit Bezug auf Anklagepunkt III

9. 4. 1948

(Datum)

F. W. Wagner

Unterschrift des Verteidigers

Beschluss des Gerichtshofs

12 April 1948

Approved for Tribunal VI

PROSECUTION AND
DEFENSE COUNCIL
MILITARY TRIALS
UNIT

Vorsitzender Richter

1706

Paul M. Robert
Judge

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
12 APRIL 1948

THE UNITED STATES OF AMERICA

- vs. -

GISEL BRAUER, et al.,

Defendants.

FILED *12 April 1948* with
Case No. *6* Secretary General
for Military Tribunals
Defense Center

ORDER

On 18 March 1948, Dr. Rudolf Dix, on behalf of all the defendants, filed a petition with the Tribunal with respect to the treatment and accommodations accorded said defendants in the prison in which they are confined.

While this matter is beyond the purview of the Tribunal, it did refer said petition to the prison director who has since made certain adjustments in the routine to which the defendants are subjected.

It appearing to the Tribunal that it has accomplished all that it can do under the circumstances, said petition is now dismissed.

Curtis G. Shaker
CURTIS G. SHAKER
Presiding

Dated this 12th day of April 1948

PROSECUTION NOTIFIED

12 April 1948 LOR
DEFENSE NOTIFIED

383
(2)

HEADQUARTERS JUSTICE PRISON

APG 696-A US ARMY

7 April 1948

MEMO TO : Presiding Judge,
Tribunal VI.

1. Pursuant to your memorandum dated 2 April 1948 the undersigned interviewed the Defendant, Dr. Max Ilgner, in regard to routine prison schedule of the Defendants in the I.G. Farben Case.

2. The Defendant Ilgner offered the following suggestions:

- a) That one schedule be set and rigidly maintained at all times.
- b) That defendants be awakened with courtesy by a German in German, rather than by guard.
- c) That lights be turned on in cells promptly at 0600.
- d) That between hours 0800 - 0900 Defendants in Case 6 be allowed to go to Barber shop and return in groups of three, at will, and without guard. That waiting at Barber Shop be avoided.
- e) That return to cell from exercise period be scheduled 0845, on mornings court open's at 0930, and at 0830, on those mornings when court open's at 0900.
- f) That more day light exercise be granted on week end's.
- g) That members of Case 6 be exercised together with members of Case 10 Krupp group Case and allowed to mingle freely with Defendants of Case 10.
- h) That at present Defendants of Case 6 group are called first at 1800 for movement to Gymnasium for Conferences with Counsel, that instead, other Defendants be called first avoiding a few minutes wait on part of Case 6.
- i) That Defendants in Case 6 be allowed to keep civilian clothing in cells.
- j) That exercise period on Saturday be arranged prior to "shower" hour rather than following the showers.

3. Action indicated below has been taken upon suggestions made by Dr. Digner.

- a) As here to fore, schedule for defendants will be altered only in accordance with Tribunal hours and dates. However correction will be made in any minor variations which may have occurred in the administrative routine.
- b) Guards will continue to awaken the defendants. It is reported that repeated calls are required to awaken some of the Defendants in Case 6.
- c) Lights will be turned on in cell promptly at 0600. Any delay in this matter in past is an administrative lapse which will be corrected.
- d) Defendants in Case 6 will be sent to barber shop in two groups under guard to lessen waiting time. 5 Barbers are available and chairs are available for defendants awaiting "turn" at Barber. For reasons of security and control, the request for individuals to go to barber shop without guard and not in formation, is not approved.
- e) Morning exercise period will be made earlier in order to provide more time for Defendants to dress for court.
- f) More daylight exercise will be scheduled on Sundays and when Tribunal is not in session, on Saturdays.
- g) Intermingling with defendants of other cases in exercise yards and at other times cannot be approved due to existing directives and administrative control.
- h) The defendants of Case # 6 are "called" first at 1500 to attend any scheduled conferences, because this group moves more slowly from cell into formation than any other group. However instructions have been issued to avoid any use-less waiting or loss of time.
- i) Keeping of civilian clothing in cells by any defendant cannot be approved due to obvious security reasons.
- j) Request for exercise period on Saturday prior to "shower" hour is reasonable and approved.

5. GENERAL REMARKS.

- a) The prison officer had previously brought to my attention, request for unguarded individual movement to barber shop by defendants of Case # 6. Also it was known that these defendants are scheduled first at meals and formations for any movement, because of their age and slowness of movement in comparison with other groups. Supervising personnel exercise patience with defendants of Case # 6 in consideration of their age, health and lack of military background.

James C. Sutton
JAMES C. SUTTON
Major Inf.
Asst. Prison Director

Nürnberg, 23 March 1948

383

Dear Dr. Dix:

I have been asked from all my colleagues, to make the following suggestions. I understand that the principle idea is to expedite the trial and not to lose time in this respect, but on the other hand to save time, nerves and energy during the day as much as possible, so that especially the older gentlemen are able to maintain the present speed. For this purpose some fundamental changes are necessary in the prison for those under trial:

- (1) Same treatment for the defendants as the prisoners in the witness wing (to save nerves).
- (2) A very punctual carried through time table, which must be the same day by day, so everybody is able to dispose of his time in an intelligent way (to save time and energy).

Under these premises the following time table for our group should be carried through (details should be discussed by me as the speaker of our group with the Prison Officer, which in former times always functioned satisfactorily):

0600	General call in the wing (we have no watches)
0700	(and not earlier) - shave; everybody goes - as formerly - alone to the barber shop and back to his cell. All cells to be opened at 0700. This would save a lot of time.
0800 - 0845	Exercise (Voluntary)
0900	March to the court
0915	Court-Beginning) 15 minutes less
1645	Court-Finish) than present
1730	(and not earlier) call for the meeting with defense counsel; defendants to be called the last
2000 - 2100	Exercise (Voluntary)

Those who want to keep their good dress overnight in the cell in order to avoid change during the day (to save time) can do so.

SATURDAY AFTERNOON AND SUNDAY TIME TABLE
(On both days each 3 hours exercise)

SATURDAY AFTERNOON	1300 - 1400	Exercise (Voluntary)
	1400 - 1500	Shower
	1500 - 2000	Meeting
	2000 - 2100	Exercise (Voluntary)
SUNDAY	1030 - 1130	Exercise (Voluntary)
	1400 - 1600	Exercise (Voluntary)

If this program will be carried through, we save nerves, energy and time and will be able to stand through the present speed and in this way to assist in expediting the trial.

/s/ Dr. Max Ilgner

Dr. Max Elger
Cell N° 14

Munich, 23. 3. 48
383
③

Dear Dr. Dix!

I have been asked from all my colleagues, to make the following suggestions. I understand that the principle idea is to expedite the trial and not to loose time in this respect, but on the other hand to save time, nerves and energy during the day as much as possible, so that especially the older gentlemen are able to maintain the present speed. For this purpose some fundamental changes are necessary in the prison for those under trial:

- (1) Same treatment ^(for the defendants) as the prisoners in the witness - ring (to save nerves).
- (2) A very punctual carried through time-table, which must be the same

day by day, so everybody is able to dispose of his time in an intelligent way (to save time and energy).

Under these premises the following time-table for our group should be carried through (details should be discussed by me as the speaker of our group with the Prison-Officer, which in former times always functioned satisfactory):

- 6⁰⁰ General Call in the Wing (we have no watches)
- 7⁰⁰ (and not earlier) Shave; everybody goes - as formerly - alone to the barber-shop and back to his cell. All cells to be opened at 7⁰⁰. This would save a lot of time.
- 8⁰⁰ - 8⁴⁵ Exercise (voluntary)
- 9⁰⁰ March to the Court
- 9¹⁵ Court - Beginning } 15 minutes
- 16⁴⁵ " - Finish } less than present
- 17³⁰ (and not earlier) call for the meeting with defense-counsel; defendants to be
- 20⁰⁰ - 21⁰⁰ Exercise (voluntary) (called the last)

Those, who want to keep their good

dress over night in the cell in order to avoid change during the day (to save time) can do so.

Saturday-afternoon and Sunday-
Time-Table.

(on both days each 3 hours exercise)

Saturday-afternoon : 13⁰⁰-14⁰⁰ Exercise (voluntary)
14⁰⁰-15⁰⁰ Shower
18⁰⁰-20⁰⁰ Meeting
20⁰⁰-21⁰⁰ Exercise (voluntary)
Sunday : 10³⁰-11³⁰ Exercise (voluntary)
14⁰⁰-16⁰⁰ Exercise (voluntary)

If this program will be carried through we save nerves, energy and time and will be able to stand through the present speed and in this way to assist to expedite the trial.

H. Max Igner.

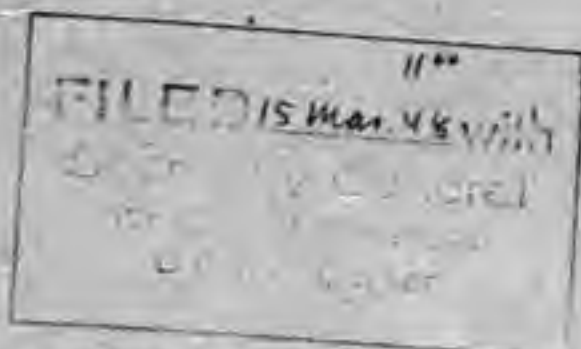
NOTICE CASE VI

383
(74)
Dursberg, 12 March 1946

Dr. Rudolf Lix

To
Military Tribunal No VI
Case No 6

Munich



In the name of the joint defense in the IG trial I hereby
move that the begin^{ning} of the sessions be fixed again for 9.30
hours as in all other cases and the end of the sessions for
16.30 hours, and that no session be scheduled for Saturdays.

Reasons:

The initiative for this motion is taken by the defendants who
pointed out to their defense counsels in a petition signed by
all of them, copy of which is enclosed, that it is a physical
impossibility for them to adhere to the present schedule for any
length of time. The petition deals with the position of the
defendants exhaustively and therefore needs no further comment in
my opinion.

In their decision regarding this petition I would ask the
Tribunal to take in account that the majority of the defendants are
from 40 to 70 years old and that at this age the physical strain
due to the present time table in conjunction with the effects of
several years of imprisonment in most cases manifests itself
with particular severity.

In order to afford the Tribunal a general insight into
the daily schedule of the defendants, I also enclose copy of an
affidavit, which Herr von Bohlen und Halbach made on 11 February
1946 and in which he describes the daily routine of the defendants
in one week, i.e., the period from 1 to 7 February. The statements
made in this affidavit equally and fully apply to the defendants
in the IG case for all practical purposes.

Should the Tribunal desire any further information before
coming to a decision, I shall be glad to be granted an
opportunity to furnish such information in a discussion in
camera.

383
76

27 February 1946

To Dr. Rath with the request for forwarding to
Dr. Jochenow for discussion in chambers.

- 1.) The present time schedule cannot be endured physically; there is no time for hygiene, especially for cleanliness in the cell (we have blankets only and no bed linen.)
- 2.) Saturday afternoon must be without session, otherwise the single weekly shower bath cannot be taken. There is no opportunity for taking a full bath.
- 3.) With the present time schedule we are forced to eat very hastily, sometimes the meals are cold, as we have to change before we are allowed to eat.
- 4.) we have to wash stockings and handkerchiefs ourselves, but there is no longer time for it.
- 5.) Shortly many of us enter the fourth year of uninterrupted imprisonment - imprisonment on remand - with all the effects on body and mind resulting from it.
- 6.) All the undersigned consider the present time schedule an unbearable physical and psychical burden quite apart from the fact that there is also no time to arrange ones files in the cell during the day.
- 7.) For these reasons the undersigned ask for the reintroduction of the former time schedule; the undersigned themselves are very much interested in the speedy termination of the proceedings but the present time is beyond their strength.

Signatures :

signed: Krauch signed Schmits signed v. Schnitzler
signed Tajewski signed Heerlein signed v. Talerien
signed for Meer signed Schneider signed -wergin
signed Gattinesu signed Luerrfeld signed Kugler
signed v.d.heyde, signed Hurster, signed -ann
signed Lautenschlager, signed Kuehne, signed Jaehne,
signed Huetefleisch, signed Ilgenr.

In my capacity as administrative assistant in case IC VI
I hereby confirm that the above copy together with enclosures is
a literal copy of the petition of the undersigned defendants of
27 February 1946.

NOTICE CASE VI

383

(7c)

age groups (taking into ^{account} the next months until the end of the trials).

I. 65 to 70 years.

1.)	Oster	70
2.)	Johns	68
3.)	Kashner	66
4.)	Folmity	67
5.)	Isorlein	65

II. 60 to 65 years.

6.)	v. Schmitzer	63
7.)	ter Meer	63
8.)	Buergin	63
9.)	Uajowski	66
10.)	safliger	62
11.)	Krauch	62
12.)	Schneider	60
13.)	v. Lieriam	60
14.)	Laubenschlaeger	60

III. Under 60 years.

15.)	Wann	54
16.)	Bustofisch	54
17.)	Wigner	49
18.)	Luepfold	49
19.)	Wurster	47
20.)	v. d. Soyde	48
21.)	Ambros	47
22.)	Kugler	47
23.)	Gattinosa	43

CERTIFICATE OF TRANSLATION

16 March 1948

I, George Goodman, No. 34 789, hereby certify that I am thoroughly conversant with the English and German languages and that the above is a true and correct translation of Notice Case VI.

George Goodman,
No. 34 789.

- 3 -
BFL

A f f i d a v i t

I, Alfred Krupp von BOHLER UND HALBACH, after having been cautioned that I render myself liable to punishment by giving a false statement, hereby declare the following on oath:

In the following I have given a description of how I spent the days during the week of 1 to 7 February 1948. The times are given as exactly as possible according to the prison clock, which strikes every 15 minutes.

I remark beforehand:

Glasses, fountain pens and suspenders are to be handed in in the evening and are handed out again in the morning. These articles are meant if I say "articles handed over" or "articles received".

During the night, the light, which is situated outside the cells in the glass panel of the door, is not turned out but dimmed. It is not possible to write or read when the light is dimmed.

By "exercise" the hour of physical exercise is meant. "Brood received" means the handing-in of the broom or mop for the daily cleaning of the cell. On Saturdays the cell is supposed to be thoroughly cleaned out.

"Meeting" is the conference which the defendants on trial are allowed to have by special application on Saturdays and Sundays, within their trial team for the discussion of matters concerning their defense.

(signature:) Krupp von Bohlen u. Halbach

Furthermore I wish to point out that in the course of the day a considerable number of actions are carried out which are not specially mentioned below, such as: dressing, personal toilet, bed-making, eating breakfast, cleaning of cell, changing clothes before going to the court-room, eating lunch, changing clothes on returning from the court-room, eating supper, washing dishes, washing handkerchiefs, socks, collars, undressing.

Sunday, 1 February 1948

06.35 Light fully turned on.
 06.40 Go and get breakfast.
 06.50 Articles received.
 08.10 Broom received.
 08.30 Fall in for the Protestant religious service.
 09.20 Return from the Protestant religious service.
 09.23 Fall in for exercise.
 10.03 Return from exercise.
 11.25 Go and get lunch.
 13.25 Fall in for exercise.
 14.35 Return from exercise.
 16.50 Go and get supper.
 17.25 Beginning of the meeting.
 18.40 End of the meeting.
 22.03 Articles handed over.
 22.05 Light closed.

Monday, 2 February 1948

06.25 Articles received.
 06.32 Light fully turned on.
 06.34 Go and get breakfast.
 06.53 Fall in for exercise.
 07.30 Return from exercise.
 07.30 Suit of clothes received for going into Court.
 07.31 Fall in for shaving.
 08.00 Return after shaving.
 08.20 Broom received.
 08.45 Fall in for going into Court.
 12.22 Return from the Court-room.
 12.23 Go and get lunch.

(signature:) A. Krup von Bohlen and
 Halbach

12.55 Received coffee.
13.03 Fell in for going into Court.
16.42 Return from the Court-room.
16.48 Go and get supper.
21.05 Fell in for exercise.
21.58 Return from exercise.
22.00 Articles handed over.
22.45 Light dimmed.

Tuesday, 3 February 1948

06.30 Light fully turned on.
06.55 Articles received.
06.37 Go and get breakfast.
07.10 Fell in for exercise.
07.55 Return from exercise.
07.55 Suit of clothes received for going into Court.
07.58 Fell in for shaving.
08.09 Return from shaving.
08.33 Bread received.
08.48 Fell in for going into Court.
12.23 Return from the Court-room.
12.25 Go and get lunch.
12.37 Coffee received.
13.05 Fell in for going into Court.
17.16 Return from the Court-room.
17.17 Go and get supper.
17.55 Fell in for discussion with defence counsel.
19.58 Return from discussion with defence counsel.
20.02 Fell in for exercise.
21.00 Return from exercise.
22.00 Articles handed over.
22.10 Light dimmed.

Wednesday, 4 February 1948

06.30 Light fully turned on.
06.30 Articles received.
06.53 Go and get breakfast.
06.50 Fell in for exercise.
07.43 Return from exercise.
07.45 Suit of clothes received for going into Court.
07.45 Fell in for shaving.
08.08 Return from shaving.
08.20 Bread received.
08.52 Fell in for going into Court.
12.27 Return from the Court-room.
12.28 Go and get lunch.
12.38 Coffee received.
13.05 Fell in for going into Court.

(signature:) A. Krup von Bonlen und
Halbach

16.44 Return from the Court-room.
 16.45 Go and get supper.
 19.20 Go to the dentist.
 20.05 Return from the dentist.
 22.00 Articles handed over.
 ? Light dimmed.

Thursday, 5 February 1948.

06.22 Articles received.
 06.32 Light fully turned on.
 06.37 Go and eat breakfast.
 07.05 Fall in for shaving.
 07.15 Return from shaving.
 07.45 Broom received.
 07.53 Fall in for exercise.
 08.30 Return from exercise.
 08.43 Fall in for going into Court.
 12.23 Return from the Court-room.
 12.24 Go and eat lunch.
 13.03 Coffee received.
 13.06 Fall in for going into Court.
 15.37 Return from the Court-room.
 16.54 Go and eat supper.
 17.35 Go to the dentist.
 18.25 Return from the dentist.
 20.25 Fall in for exercise.
 21.25 Return from exercise.
 22.03 Articles handed over.
 22.03 Light dimmed.

Friday, 6 February 1948.

06.00 Articles received.
 06.30 Go and get breakfast.
 06.32 Light fully turned on.
 07.15 Fall in for shaving.
 07.35 Return from shaving.
 07.45 Suit of clothes received for going into Court.
 07.45 Fall in for exercise.
 08.20 Return from exercise.
 08.25 Broom received.
 08.43 Fall in for going into Court.

12.25 Return from the Court-room.
12.26 Go and get lunch.
12.40 Coffee received.
13.01 Fall in for going into Court.
15.43 Return from the Court-room.
16.52 Go and get supper.
17.23 Fall in for discussion with the defense counsel.
19.53 Return from discussion with the defense counsel.

(signature:) V. Trupp von Rohlen und Walbach.

20.10 Fall in for exercise.
 21.00 Return from exercise.
 22.10 Articles handed over.
 22.10 Light dimmed.

Saturday, 7 February 1948

06.10 Articles received.
 06.25 Light fully turned on.
 06.40 Go and eat breakfast.
 07.10 Fall in for exercise.
 07.45 Returned from exercise.
 07.45 Suit of clothes received for going into Court.
 07.50 Fall in for shaving.
 08.15 Return from shaving.
 08.20 Broom received.
 10.52 Fall in for going into Court.
 12.20 Return from the Court-room.
 12.21 Go and eat lunch.
 13.25 Fall in for showerbath.
 13.55 Return from showerbath.
 14.20 Fall in for exercise.
 15.15 Return from exercise.
 15.24 Go and eat supper.
 15.20 Beginning of the meeting.
 20.03 End of the meeting.
 21.53 Articles handed over.
 2 Light dimmed.

Note: In addition, on this day two meetings took place with the commissioner, from 09.30 to 10.45 and from 13.30 to 15.00, in which several of my co-defendants had to participate; I myself, however, did not have to take part.

Munich, 11 February 1948
 (Signature:) Alfred Krupp von Bohlen
 und Halbach
 Alfred Krupp von Bohlen und Halbach

I hereby certify and attest the above signature of Herr Alfred Krupp von Bohlen und Halbach, affixed before me.

-5-
 Munich, 11 February 1948
 s./ Dr. Fritz Wecker
 (Attorney at Law)

11⁰⁰
15 Mar. 48 with

General

Lehrer

Dr. ...

383

(8)

Dr. Rudolf Dix

Nürnberg, den 12. März 1948

An das
Militärgericht VI
Fall 6
Nürnberg

~~Während der Geschäftsverteilung im I.G.-Prozess~~ stelle ich hiermit den Antrag, den Sitzungsbeginn wieder wie in allen übrigen Prozessen auf 9.30 Uhr und das Sitzungsende auf 16.30 Uhr festzusetzen und von der Abberaumung von Verhandlungen an Sonntagen absehen wollen.

Begründung:

Die Initiative zu diesem Antrag geht von den angeklagten Herren aus, die in einer von ihnen allen unterzeichneten Eingabe, die in Abschrift anliegt, ihre Verteidiger darauf hingewiesen haben, dass die gegenwärtige Zeiteinteilung physisch von ihnen auf die Dauer nicht mehr durchzuhalten ist. Die Erklärung behandelt die Situation der Angeklagten in erschöpfender Weise und bedarf deshalb nach meiner Ansicht keines weiteren Kommentars.

Ich bitte das Hohe Gericht bei der Entscheidung über diesen Antrag weiterhin die Tatsache zu berücksichtigen, dass sich der größte Teil der Angeklagten in einem Alter zwischen 50 und 70 Jahren befindet und dass in diesem Alter die körperlichen Anstrengungen des gegenwärtigen Zeitprogramms verbunden mit den Auswirkungen einer in den meisten Fällen mehrjährigen Haft sich besonders hart bemerkbar machen.

Um dem Hohen Gericht einen allgemeinen Einblick in den Tageslauf der Angeklagten zu geben, überreiche ich ferner Abschrift einer eidesstattlichen Erklärung, die Herr Krupp von Bohlen und Halbach unter dem 11. Februar 1948 abgegeben hat, und in der er für eine Woche, nämlich die Zeit vom 1. - 7. Februar 1948 den Tageslauf der Angeklagten geschildert hat. Die in dieser eidesstattlichen Erklärung getroffenen Feststellungen treffen praktisch in vollem Umfang auch für die im I.G.-Prozess angeklagten Herren zu. Sollte das Hohe Gericht vor seiner Entscheidung noch weitere Auskünfte für notwendig halten, so wäre ich dankbar, wenn mir hierzu in einer Besprechung in chambers Gelegenheit gegeben werden würde.

R. Dix

Bitte wenden!

27.2.48

Herrn Dr. Nath mit der Bitte um Weitergabe an
Herrn Dr. Richter zur Besprechung in Chambers.

- 1.) Die jetzige Zeiteinteilung ist physisch nicht durchführbar, es mangelt an Zeit für Hygiene, insbes. Sauberkeit in der Zelle (wir haben nur Decken und keinerlei Bettwäsche)
- 2.) Der Samstag nachmittag muss frei sein, andernfalls fällt das einmalige Duschen in der Woche aus. Vollbad gibt es überhaupt nicht.
- 3.) Bei der jetzigen Zeiteinteilung wird das Essen heruntergeschlungen, manchmal kalt, weil wir uns umziehen müssen, bevor wir essen dürfen.
- 4.) Strümpfe und Taschentücher müssen wir uns selber waschen; denn ist jetzt keine Zeit mehr.
- 5.) Bei vielen von uns beginnt in Kürze das vierte Jahr ununterbrochener Haft - Untersuchungshaft! mit den entsprechenden körperlichen und geistlichen Auswirkungen.
- 6.) Alle Unterzeichneten betrachten die jetzige Zeiteinteilung als eine unerträgliche physische und psychische Belastung, ganz abgesehen, dass die Möglichkeit in der Zelle tagüber seine Akten zu ordnen, ebenfalls entfällt.
- 7.) Aus diesen Grunde bitten die Unterzeichneten um Wiedereinführung der alten Zeit; die Unterzeichneten haben selbst das größte Interesse an Beschleunigung, aber die jetzige Zeiteinteilung geht über die Kraft.

gez. Krauch	gez. Schmitz	gez. v. Schnitzler
gez. Gajewski	gez. Hörlein	gez. v. Knieriem
gez. Ter Meer	gez. Schneider	gez. Bürgin
gez. Gattineau	gez. Dürfeld	gez. Kugler
gez. v. d. Heyde	gez. Wurster	gez. Mann
gez. Lautenschläger	gez. Kühne	gez. Jähne
gez. Bütefisch	gez. Ilgner	

In meiner Eigenschaft als administrative Assistent in case VI bescheinige ich hiermit, dass die vorstehende Abschrift nebst den beiden folgenden Anlagen eine wortgetreue Wiedergabe der Eingabe der unterzeichneten Angeklagten vom 27.2.48 ist.

- 1.) The present chronological order cannot be endured physically; there is no time for hygienics, especially to keep clean our cells (we have blankets only and no bed clothes.)
- 2.) Saturday afternoon must be without session, otherwise we have no possibility to take a shower bath, which is once a week only. There is no occasion of taking a full bath.
- 3.) With the present chronological order we are forced to eat very hastily, sometimes the meals are cold as we have to change before we are allowed to eat.
- 4.) We have to wash stockings and handkerchiefs by ourselves, but there is no longer time for it.
- 5.) How long many of us go into the fourth year of continual imprisonment (imprisonment on remand) with all the effects for body and mind resulting from it.
- 6.) All the undersigned defendants consider the present chronological order as unbearable in physical and psychical respect, quite apart from the fact that ~~we~~ we have no time to arrange our files in the cells during the day.
- 7.) For these reasons the defendants ask to reintroduce the former chronological order; we are all very much interested in the quick end of the proceedings but the present chronological order goes beyond our forces.

Alters-Klassen (unter Berücksichtigung der
nachsten Monate bis Fr. 2.50-Ende)

I. 65 - 70 Jahre

1.) Oster	78
2.) Jahn	68
3.) Jahn	68
4.) Schütz	67
5.) Horlein	65

II. 60 - 65 Jahre

6.) v. Schultze	63
7.) ter Meer	63
8.) Birgin	63
9.) Gajowski	62
10.) Bafliger	62
11.) Krauch	61
12.) Schneider	60
13.) v. Knieriem	60
14.) Leutenachl-gas	60

III. Unter 60 Jahre

15.) Mann	54
16.) Bittflech	54
17.) Ilgen	49
18.) Ditzfeld	49
19.) Warater	47
20.) v. d. Heyde	49
21.) Ambr. S.	47
22.) Kugler	47
23.) Gattinow	43

Anlage 2Eidesstattliche Erklärung

Ich, Alfred Krupp von Bohlen und Halbach, nachdem ich darauf aufmerksam gemacht worden bin, dass ich mich wegen falscher Aussage strafbar mache, erkläre hiermit folgendes zu Eidesstatt:

Im Folgenden habe ich dargestellt, wie während der Woche vom 1. bis 7. Februar 1948 der Tag für mich ablief. Die Zeiten sind möglichst genau nach der Gefangnisuhr ermittelt, die alle 15 Minuten schlägt.

Vorweg bemerke ich:

Brillen, Wollfoderhalter und Hosenträger sind abends abzuliefern und werden morgens wieder ausgegeben. Diese Gegenstände sind gemeint, wenn von "Gegenständen abgeliefert", bzw. "Gegenstände erhalten" gesprochen wird.

Während der Nachtstunden wird das Licht, das sich ausserhalb der Zellen im Türfenster befindet, nicht gelöscht, sondern abgeblendet. Lesen oder schreiben ist bei abgeblendetem Licht nicht möglich.

Mit "exercice" ist die Bewegungsstunde gemeint.

"Bessen erhalten" bedeutet die Herabgabe des Besens bzw. Wischers zur täglichen Zellenreinigung. Samstags soll eine gründliche Reinigung der Zellen vorgenommen werden.

"Meeting" ist die Besprechung, die die im Prozess befindlichen Angeklagten zur Besprechung von Angelegenheiten ihrer Verteidigung an Samstagen und Sonntagen auf besonderen Antrag hin erhalten dürfen, innerhalb ihrer Prozessgruppe.

Ich bemerke ferner, dass im Laufe des Tages, im Folgenden nicht besonders erwähnt, eine grössere Anzahl von Verrichtungen erledigt werden müssen, wie: Anziehen, Körperpflege, Bettmachen, Frühstück, Zellenreinigen, Kleiderwechsel vor dem Gang zur Verhandlung, Mittagessen, Kleiderwechsel nach Rückkehr von der Verhandlung, Abendessen, Geschirr-Reinigen, Wasche von Taschentüchern, Strümpfen, Kragen, Ausziehen.

Sonntag, den 1. Februar 1948

383
(13)

0635 Licht aufgeblendet
0640 Frühstück holen
0650 Gegenstände erhalten
0810 Bessen erhalten
0830 Antreten zum evangelischen Gottesdienst
0920 Zurück von evangelischen Gottesdienst
0943 Antreten zum Exercicio
1003 zurück von Exercicio
1125 Mittagessen holen
1325 Antreten zum Exercicio
1435 zurück von Exercicio
1450 Abendessen holen
1725 Beginn meeting
1848 Ende meeting
2203 Gegenstände abgeliefert
2245 Licht abgeblendet

Montag, den 2. Februar 1948

0625 Gegenstände erhalten
0632 Licht aufgeblendet
0634 Frühstück holen
0655 Antreten zum Exercicio
0730 zurück von Exercicio
0730 Gerichtsanzug erhalten
0731 Antreten zum Kassieren
0810 zurück vom Kassieren
0820 Bessen erhalten
0848 Antreten zur Gerichtsverhandlung
1222 zurück von der Gerichtsverhandlung
1223 Mittagessen holen
1235 Kaffee erhalten
1303 Antreten zur Gerichtsverhandlung
1442 zurück von der Gerichtsverhandlung
1443 Abendessen holen
2105 Antreten zum Exercicio
2143 zurück von Exercicio
2200 Gegenstände abgeliefert
2213 Licht abgeblendet

Dienstag, den 3. Februar 1948

0630 Licht aufgeblendet
0635 Gegenstände erhalten
0637 Frühstück holen
0710 Antreten zum Exercicio
0735 zurück von Exercicio
0755 Gerichtsanzüge erhalten
0736 Antreten zum Kassieren
0809 zurück vom Kassieren
0833 Bessen erhalten
0845 Antreten zur Gerichtsverhandlung
1223 zurück von der Gerichtsverhandlung
1225 Mittagessen holen
1237 Kaffee erhalten
1305 Antreten zur Gerichtsverhandlung

1-

1716 zurück von der Gerichtsverhandlung
 1717 Abendessen holen
 1755 Antreten zur Anwaltsbesprechung
 1858 zurück von der Anwaltsbesprechung
 2002 Antreten zum exercise
 2100 zurück vom exercise
 2200 Gegenstände abgeliefert
 2210 Licht abgeblendet

Mittwoch, den 4. Februar 1948

0630 Licht aufgeblendet
 0630 Gegenstände erhalten
 0635 Frühstück holen
 0650 Antreten zum exercise
 0745 zurück vom exercise
 0745 Gerichtsausgang erhalten
 0745 Antreten zum Passieren
 0808 zurück vom Passieren
 0820 Besen erhalten
 0832 Antreten zur Gerichtsverhandlung
 1227 zurück von der Gerichtsverhandlung
 1228 Mittagessen erhalten
 1238 Kaffee erhalten
 1305 Antreten zur Gerichtsverhandlung
 1444 zurück von der Gerichtsverhandlung
 1445 Abendessen holen
 1920 zum Zahnarzt
 2005 zurück vom Zahnarzt
 2200 Gegenstände abgeliefert
 ? Licht abgeblendet

Donnerstag, den 5. Februar 1948

0622 Gegenstände erhalten
 0632 Licht aufgeblendet
 0637 Frühstück holen
 0705 Antreten zum Passieren
 0716 zurück vom Passieren
 0745 Besen erhalten
 0755 Antreten zum exercise
 0830 zurück vom exercise
 0845 Antreten zur Gerichtsverhandlung
 1223 zurück von der Gerichtsverhandlung
 1224 Mittagessen holen
 1305 Kaffee erhalten
 1306 Antreten zur Gerichtsverhandlung
 1637 zurück von der Gerichtsverhandlung
 1645 Abendessen holen
 1735 zum Zahnarzt
 1925 zurück vom Zahnarzt
 2025 Antreten zum exercise
 2125 zurück vom exercise
 2203 Gegenstände abgeliefert
 2203 Licht abgeblendet

Freitag, den 6. Februar 1948

0600 Gegenstände erhalten
 0630 Frühstück holen
 0632 Licht aufgeblendet
 0718 Antreten zum Rasieren
 0736 zurück vom Rasieren
 0746 Gerichtszug erhalten
 0745 Antreten zum exercise
 0820 zurück vom exercise
 0825 Essen erhalten
 0843 Antreten zur Gerichtsverhandlung
 1225 zurück von der Gerichtsverhandlung
 1226 Mittagessen holen
 1240 Kaffee erhalten
 1301 Antreten zur Gerichtsverhandlung
 1633 zurück von der Gerichtsverhandlung
 1652 Abendessen holen
 1729 Antreten zur Anwaltsbesprechung
 1853 zurück von der Anwaltsbesprechung
 2010 Antreten zum exercise
 2100 zurück vom exercise
 2210 Gegenstände abgeliefert
 2210 Licht abgeblendet

Samstag, den 7. Februar 1948

0610 Gegenstände erhalten
 0625 Licht aufgeblendet
 0640 Frühstück holen
 0710 Antreten zum exercise
 0740 zurück vom exercise
 0750 Antreten zum Rasieren
 0815 zurück vom Rasieren
 0820 Essen erhalten
 1052 Antreten zur Gerichtsverhandlung
 1220 zurück von der Gerichtsverhandlung
 1221 Mittagessen holen
 1325 Antreten zum Brausebad
 1355 zurück vom Brausebad
 1420 Antreten zum exercise
 1515 zurück vom exercise
 1624 Abendessen holen
 1820 Beginn des meetings
 2113 Ende des meetings
 2153 Gegenstände abgeliefert
 ? Licht abgeblendet

Bemerkung: An diesem Tage fanden ausserdem 2 Sitzungen statt beim Commissioner, von 0930 bis 1045 und von 1330 bis etwa 1600, an denen einige meiner Mitangeklagten teilnehmen mussten, ich jedoch nicht.

Nürnberg, den 11. Febr. 48
 gez. Alfred Krupp von Bohlen und Hal-

Alfred Krupp von Bohlen und Hal-
 1730

Die obige Unterschrift des Herrn Alfred Krupp von Bohlen
und Halbach als vor mir, Dr. Fritz Wecker, eingetragt und
hiervon besandt und bezeugt.

Nürnberg, den 11. Februar 1948

gez. Dr. Fritz Wecker
(Rechtsanwalt)

F. Wecker

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
18 APRIL 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

F.	12 April 1948 with
Case No. 6	by General
	by Trial
	by Court

ORDER

The Tribunal having considered petition of Dr. Rudolf Aschenauer, counsel for the Defendant Gattineau, dated 18 March 1948, wherein said counsel requested that the Prosecution be required to make available certain documents, and it further appearing that the Prosecution has already delivered to said counsel all of such documents as are available

IT IS ORDERED that said petition be dismissed.

Curtis G. Snake
CURTIS G. SNAKE
Presiding

Dated this 18th day of April 1948

DEFENSE NOTIFIED
12 April 1948
PROSECUTION NOTIFIED

384
②
1100
FILED / April 11 1948 with
Secretary General
for Military Tribunals
Defense Center

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

KRAUCH and Others (Case VI)

ANSWER TO MOTION ON BEHALF OF THE DEFENDANT GATTINEAU REQUESTING
INTERROGATIONS, CERTAIN AFFIDAVITS SIGNED BY THE DEFENDANT, ETC.

To: The Secretary General, Military Tribunals (Room 281).

1. Answer is made to the application by Dr. Rudolf Aschenauer, counsel for the defendant GATTINEAU, dated 15 March 1948 requesting that documents of three different types be made available to the defendant: (1) copies of all interrogations of the defendant GATTINEAU; (2) copies of the original reports on leading men of the Party, SS, SA and the High Command of the Wehrmacht, which the defendant GATTINEAU "remembers"; and (3) copies of two affidavits on Austria and Pressbourg given to the prosecution, which have not been submitted by the prosecution. This answer has been delayed partly because of my recent absence and partly because of confusion as to what was meant by the request for original reports on leading men of the Party, etc., "which my client remembers". A conference after my return made it plain that the latter request (type 2) referred to certain lists of names of "leading people" of the SA, the SS, the OEW and the Party, known by the defendant GATTINEAU which he had submitted on 6 February 1947 at the request of an interrogator.

2. Without waiving any rights with respect to the procedural or substantive law applicable, and without prejudice to any further action on similar matters, the prosecution agrees to the following in lieu of any order by the Tribunal in this matter:

(1) Dr. Aschenauer may obtain access to German copies of all transcribed and available interrogations of the defendant GATTINEAU which had been conducted by representatives of OCC. Dr. Aschenauer may report to Mrs. Erna Uiberall, my administrative

384
③

assistant, Room 242, in order to work out arrangements so that he may see these interrogations.

(2) Through the Defense Administrator, Dr. Aschenauer is being given a copy of four lists, each signed by the defendant GATTINIAU, and each dated 6 February 1947: the first contains the names of nine leading persons of the SA; the second contains the names of five members of the OEW; the third lists eight leading members of the SS; and the fourth contains six leading members of the NSDAP.

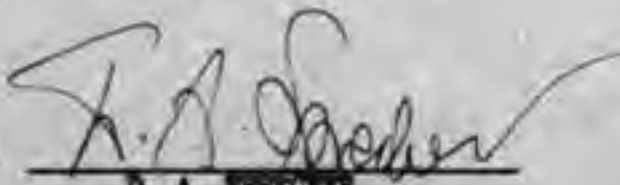
(3) Through the Defense Administrator, Dr. Aschenauer is also being given: (a) NI-8578, affidavit of 2 May 1947, re Austrian chemical plants acquired by Farben; (b) NI-15049, affidavit of 30 April 1947, re DAG, Pressbourg.

3. This action is being taken in the hope of reducing (if not in the hope of eliminating) further time being consumed by any claims of "psychological duress", etc. In voluntarily agreeing to each of the requests of Dr. Aschenauer, the prosecution expressly wishes to make it clear that its agreement to these requests is not being given because of any established requirements of the practice or procedures of international law. On the contrary, universal practice is to the contrary. This has been indicated before in this case by the citations of the prosecution in the arguments before this Tribunal in connection with motions on behalf of three of the defendants, the defendants HAEFLIGER, SCHMITZ and SCHNEIDER, dated respectively 21 November 1947, 24 November 1947 and 3 November 1947. This argument was in open court on 17 December 1947 (transcript, 4660-4675). The Tribunal on 12 January 1948 denied these applications (transcript, 5026). On 23 June 1947, Judge Toms also ruled on the exact point in this case on a KRAUCH motion, as he had done in other cases: "The objections ... with reference

to the interrogatories of Dr. Krauch are sustained". The conventional use of pre-trial interrogations in war crimes trials as an aid to checking credibility is seen from the Hadamar Trial, "Law Reports of Trials of War Criminals", page 50 of Vol. I.

4. The prosecution takes this means of informing counsel for defendants who have already been cross examined that it invites their informal application to the prosecution to see any pre-trial interrogations of the defendants they represent which have been conducted by representatives of OCCWC. Where transcripts of these interrogations are available and where these interrogations pertain directly to any matters later charged in the Indictment or to matters later referred to directly in any affidavits, the prosecution will make these transcripts available to the defense counsel unless there are some special security problems involved which are beyond our control in one or two cases, a problem or limitation which we do not now anticipate.

By:


D. A. SPEECHER
Chief, FARSEN TRIAL TEAM

For:

TELFORD TAYLOR
Brig. Gen. USA
Chief of Counsel

Nurnberg 1 April 1948
(Date)

Rudolf Aschenauer
Counsel for defendant
Gottineau

Nurnberg 15 March 1948

To
Secretary General
Military Tribunal, Case *AK*
Nurnberg

1700
FILED *15 March 1948* with
Secretary General
for Military Tribunals
Defense Center

To prepare the defense of my client I request that the Prosecution
makes the following documents available to me:

- 1) copies of all interrogations of my client,
- 2) copies of the original reports on leading men of the Party, SS,
SA and the High Command of the Wehrmacht, which ^{my} client remembers,
- 3) copy of the two affidavits on Austria and Fressbourg which were
signed by my client, but have not been submitted by the Prosecution
yet; my client did not obtain copies of them at that time.

Substantiation:

The affidavit of 13 March 1947, which was revoked by my client, being
a compilation made by Interrogator Verber and allegedly based upon the
interrogations, it is absolutely necessary for me in the interest of
a concrete treatment of the whole matter to have knowledge of the
transcripts of all interrogations.

(s) Rudolf Aschenauer

Rudolf Aschenauer
Verteidiger fuer den
Angeklagten Gattineau.

562
384
⑥
Muenberg, den 15.3.1948

An den

Herrn Generalsekretär des
Militärgerichtshofes, Fall IV, H
Muenberg.

1700
FILED 159 March 1948
Section of Criminal
Department of Justice
U.S. District Court
Muenberg, N.J.

Zur Vorbereitung der Verteidigung meines Mandanten bitte ich, dass
die Prosecution folgende Unterlagen an mich herausgibt:

- 1.) Abschriften aller Vernehmungen meines Mandanten,
- 2.) Abschrift der Original-Wiederschriften ueber fuehrende Leute
der Partei, SS, SA und dem OKW, an die sich mein Mandant er-
innert,
- 3.) Abschrift der beiden Affidavits ueber Oesterreich und Pressburg,
die mein Mandant unterschrieben hat, die aber bisher von der An-
klage nicht vorgelegt wurden und worueber seinerzeit mein Man-
dant keine Kopie ausgehandigt bekommen hat.

Begrundung: Da das Affidavit vom 13. Maerz 1947, das mein Mandant
widerrufen hat, eine von dem Interrogator Verber vorgenommene Zu-
sammenstellung darstellt, die angeblich auf den Interrogations ba-
siert, ist es fuer mich zur konkreten Behandlung der ganzen Angele-
genheit unbedingt notwendig, die Protokolle saentlicher Vernehmungen
zu kennen.

Rudolf Aschenauer

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
12 APRIL 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUSE, et al.,

Defendants.

FILED *12 April 1948* with
Secretary General
Case No. 6
for Military Tribunals
Defense Center

ORDER

On consideration of the petition of Dr. Rudolf Dix on behalf of all the defendants, dated 20 March 1948, the Tribunal finds that the relief therein sought is beyond the jurisdiction of the Tribunal.

The Tribunal has heretofore indicated that it will, whenever possible, cooperate with counsel for the defendants in making it feasible for them to travel in the preparation of their case. Since no General Order would be effective, said petition is now denied.

Curtis G. Sharr
CURTIS G. SHARR
Presiding

Dated this 12th day of April 1948

DEFENSE NOTIFIED
12 April 1948 HOK

PROSECUTION NOTIFIED

MILITARY TRIBUNALS
NURNBERG, Germany
UNITED STATES OF AMERICA

Against
KRAUCH and Others (Case VI)

1700
885

FILED 36 March 1948
Secretary General
for Military Tribunals
Defense Center

ANSWER TO A MOTION ON BEHALF OF ALL DEFENDANTS CONCERNING DEFENSE
INVESTIGATIONS IN THE BRITISH AND FRENCH ZONES OF GERMANY

TO: The Secretary General, Military Tribunals (Room 381)

1. Answer is made to the motion by Dr. Rudolf Dix, dated 22 March 1948 (submitted to the Tribunal on 25 March 1948 according to a note from Captain Rice), "concerning the conduct of interrogations of witnesses in the British and French zones of Germany".

2. The prosecution is not quite clear with respect to what relief the defense seeks by this motion. If any specific and tangible difficulty of substance has been encountered by a particular defense counsel, and if this were specifically pointed out, then a motion for some specific relief might have some meaning.

3. Instead of such specifications, however, there are a number of the old, often-repeated assertions that "a free defense is really impossible", "equality of weapons (between prosecution and defense) is out of the question" and "the above conditions are unbearable for the defense". Some of these claims should probably be touched upon in this answer, so that no one can assume that they are condoned by the prosecution because it passes them over as unworthy of mention.

4. The defense mentions "inner-political conditions in Germany" which make "many people avoid making public that they are in touch with the Nurnberg defense counsel" or hesitate to give the defense counsel information. What do defense counsel really think the relative position of the prosecution is in getting information from persons the most informed of whom were also involved in some manner in the acts and conduct set forth in the indictment? The hostility (to put it mildly) to the prosecution of many of the best informants is shown by the unwillingness of many of them to stand by admissions made under oath even in the face of the clearest documentary evidence. (Compare the atrocities recorded in the contemporaneous Anschultz Weekly Reports

prosecution exhibits 1985 through 1993] with the testimony of Karl Brann of Auschwitz ^{CONTAINING} with his disavowal of statements [prosecution exhibits 2044 through 2048 and 2061] previously made in interrogations before prosecution representatives).

5. The Farben Trial Team has eight lawyers, only two of whom speak German fluently enough to conduct interrogations. Assisting them are approximately a dozen analysts (not lawyers) or interrogators who can undertake interrogations in German of informed persons, many of whom are reluctant to give information until confronted with documentation, etc. The approved defense counsel (principal and assistant) number approximately 40. There are additionally approved assistants (not lawyers) who can undertake interrogations and investigations. More important, there are numerous sympathetic "assistants" to the defense who have worked for Farben all over Germany prior to the collapse. The plethora of affidavits submitted by defense counsel indicate the ease with which they can get someone to make statements on almost any conceivable subject. All of this shows, beyond any reasonable doubt, that it is the prosecution which does not have "equality of weapons" in securing true information from informed witnesses.

6. If there is any lack of "equality of weapons" in the defense meeting the prosecution's evidence, this is inherent in the forcefulness of contemporaneous documents which generally speak eloquently for themselves. These documents (insofar as our inadequate staff has discovered them and insofar as they have not been destroyed) record many of the developments in Germany during those 12 years during which the leaders of Nazi Germany (political and economic leaders) built up ^{Powerful} ~~an~~ military machine which was affiliated with tyranny, terrorism, and aggression from the beginning. But this is a "lack of equality" which cannot be undone by repeated assertions that "a free defense is really impossible", etc., no matter how often these assertions are repeated.

7. Where the defense can indicate a specific difficulty which is properly remedial, we believe none of the authorities will stand on protocol. But the alleged difficulties set forth in the motion

under consideration in our opinion should be treated as de minimis.

By: R. A. Fischer
D. A. SPEECHER
Chief, WARREN TRIAL TEAM

Burnberg 26 March 1947
Date

For: WELFORD TAYLOR
Brig. Gen. USA
Chief of Counsel

Report prepared by Trish

385

(5)

Dr. Rudolf Dix

Nurnberg 20 March 1948

To
Military Tribunal VI
Case 6
Nurnberg

12/0
FILED ~~229~~ ~~1412~~ with
Secretary General
for Military Tribunal
Defense Center

Subject: Motion of the Defense in the IG-trial
concerning the conduct of interrogations
of witnesses in the British and French
Zones of Germany.

On behalf of all defense counsel in the IG Trial I would like to direct the Tribunal's attention to the enclosed copy of a notice of the Chief of Defense Center, dated 12 March 1948, and in particular to paras. d - g. The Defense is aware that these instructions do not originate from the American, but from the British and French Commanding Authorities. The Defense further knows that these orders do not only apply to Nurnberg defense Counsel, but to all persons, American nationals as well, traveling on Travel Orders. The Defense therefore fully realizes that this notice and these instructions do not contain a discrimination of the Nurnberg defense counsel as such. However, they not only render the collection of evidence in the British and French Zones extremely difficult, but they also bring defense counsel into an extremely serious and important conflict of duty. There is not need to prove that in view of the present, in particular, innerpolitical conditions in Germany many people avoid asking public that they are in touch with the Nurnberg defense counsel or even give them information. These people shun - which is humanly understandable - political exposure to which the Nurnberg defense counsel naturally and of their own will are subject. Thus they want the fact

that they are in contact with the Nurnberg defense counsel or even give them information to be kept secret. The fact of this contact and giving of information is therefore a fact entrusted to defense counsel which falls under their duty of secrecy. A violation of this duty of secrecy is punishable and is a serious offense against the professional-ethical duties of an attorney and defense counsel. These orders have placed defense counsel in a conflict between their duty of obedience towards the orders of the Occupying Authorities and their professional duty of secrecy. The order of the Occupying Authorities does not relieve them from their duty of secrecy. On the other hand, the duty of secrecy does not relieve them from their duty to comply with the orders of the Occupying Authorities. The conflict can therefore not be solved. This conflict simply hinders defense counsel in fulfilling very essential professional duties.

Since the necessity to call upon the Officer in charge of Public Safety or Surete prior to visiting the witness in question may frequently result in a delay of their trip for some days, it is another impediment for the defense which was caused by these orders.

The condition created by these orders again shows obviously that in an occupied country - and moreover in a country occupied by four powers with four different zonal boundaries, a free defense is really impossible. A fair trial, however, primarily presupposes a free defense.

The defense has doubts as to whether the Tribunal will - inspite of its good will - be in a position to remove the situation created by these orders. The Defense has no doubts as to the good-will of the Tribunal to do all within its power.

The described circumstances constitute a farther example showing

that - contrary to the Prosecution who, for example, is not affected by the above-mentioned duty of secrecy towards witnesses visited by them - the Defense in its activity is in a much worse position in this trial than the Prosecution, and that an equality of weapons is out of question.

As a further example I would like to mention the trips to foreign countries which - inspite of recommendations by the Tribunal - could practically not be made, due either to the lack of foreign currency or to the necessary passes and visas. I should like to come back to this point at some later date after the still pending efforts and negotiations in this matters will have ended in either a positive or negative result. I herewith request the Tribunal, within the frame of its possibilities, to remove the above conditions which are unbearable for the Defense and which were created for the Defense by the instructions contained in the attached notice of 12 March 1949.

On behalf of all Defense Counsel
in the IG Trial:

(s) Dr. Rudolf Dix

Dr. Rudolf Dix

Nuernberg, den 20. Maerz 1948

An das
Militaertribunal VI
Fall 6

Nuernberg

1210
FILED 22 Mar 1948 with
Secretary General
for Military Tribunals
Defense Center

Betrifft: Antrag der Verteidigung im I.G.-Prozess be-
zueglich der Durchfuehrung von Zeugenver-
nehmungen in der britischen und franzoesi-
schen Besatzungszone Deutschlands.

Namens der Gesamtverteidigung im I.G.-Prozess darf ich
die Aufmerksamkeit des Tribunals auf die abschriftlich
anliegende Bekanntmachung des Chief, Defense Center
vom 12. Maerz 1948 lenken, und zwar insbesondere auf die
Absatze d bis g. Der Verteidigung ist bekannt, dass
diese Anordnungen nicht zurueckzufuehren sind auf die
amerikanischen Kommandobehoerden, sondern von den zu-
staendigen britischen und franzoesischen Kommandobehoer-
den ausgehen. Der Verteidigung ist des weiteren bekannt,
dass diese Befehle sich nicht nur auf die Nuernberger
Verteidiger beziehen, sondern auf alle Personen, auch
amerikanischer Staatsangehoerigkeit, welche auf Travel-
order reisen. Die Verteidigung ist sich deshalb voll-
kommen bewusst, dass diese Bekanntmachung und diese Be-
fehle keine Diskriminierung der Nuernberger Verteidiger
als solcher enthalten. Sie erschweren aber nicht nur
in ausserordentlichem Masse die Sammlung von Beweis-
material in der britischen und franzoesischen Zone, son-
dern sie bringen darueber hinaus die Verteidiger in einen
ausserordentlich schweren und bedeutsamen Pflichtenkonflikt.
Es bedarf keiner besonderen Begruendung, dass bei den gegen-
waertigen, insbesondere innerpolitischen Zuständen in
Deutschland, viele Leute sich scheuen, es bekannt werden
zu lassen, dass sie mit den Nuernberger Verteidigern Be-
ziehungen unterhalten, oder gar denselben Informationen
erteilen. Diese Leute scheuen - menschlich verstaendlich -
die politische Exponiertheit, welcher die Nuernberger
Verteidiger selbst naturgemasse und von ihnen in Kauf ge-
nommen ausgesetzt sind. Sie wuenschen also die Tatsache,
dass sie mit den Nuernberger Verteidigern Verbindung auf-
nehmen, oder gar ihnen Informationen erteilen, geheimzu-
halten. Die Tatsache dieser Verbindung und Informations-
erteilung ist also eine den Verteidigern zunaechst anver-
traute Tatsache, welche unter deren Geheimhaltungspflicht
faellt. Eine Verletzung dieser Geheimhaltungspflicht ist
strafbar und stellt einen schweren Verstoess gegen die
standesethischen Pflichten des Rechtsanwaltes und Vertei-
digers dar. Durch diese Befehle sind also die Verteidiger

- 2 -

in einen Konflikt zwischen ihrer Gehorsamspflicht gegenüber den Befehlen der Besatzungsbehörden und gegenüber ihrer standesrechtlichen Geheimhaltungspflicht gestellt. Der Befehl der Besatzungsbehörden entbindet sie nicht von ihrer Geheimhaltungspflicht. Auf der anderen Seite entbindet die Geheimhaltungspflicht sie nicht von ihrer Gehorsamspflicht gegenüber den Befehlen der Besatzungsbehörden. Der Konflikt ist also ein unlösbarer. Durch ihn sind die Verteidiger schlechthin an der Erfüllung ganz wesentlicher Pflichten ihres Berufs verhindert.

Da die Notwendigkeit, vor Besuch des in Frage stehenden Zeugen den zuständigen Offizier der Public Safety oder der Sureté aufzusuchen, in vielen Fällen eine vielleicht tagelange Verzögerung ihrer Reise zur Folge hat, ist eine weitere Erschwerung der Verteidigung, welche durch diese Befehle eingetreten ist.

Der durch diese Befehle geschaffene Zustand erweist erneut auf das Deutlichste, dass in einem besetzten Lande und noch dazu in einem von vier Mächten besetzten Lande mit vier verschiedenen Zonengrenzen eine freie Verteidigung überhaupt nicht möglich ist. Eine freie Verteidigung ist jedoch eine elementare Voraussetzung eines fair trials.

Die Verteidigung bezweifelt, ob das Tribunal trotz besten Willens die Möglichkeit haben wird, diesen durch diese Befehle geschaffenen Zustand zu beseitigen. An dem guten Willen des Tribunals, dieses im Rahmen des Möglichen zu tun, zweifelt die Verteidigung nicht.

Die geschilderten Umstände sind ein weiterer Beitrag zu den Beispielen, aus welchen sich ergibt, dass im Gegensatz zur Prosecution, welche z.B. die oben genannte Geheimhaltungspflicht gegenüber den von ihr besuchten Zeugen nicht trifft, die Verteidigung in ihrer Wirksamkeit in diesem Verfahren bedeutend schlechter gestellt ist als die Prosecution, und dass von einer Waffengleichheit nicht die Rede sein kann.

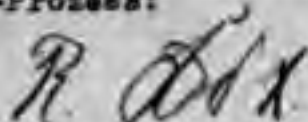
Als ein weiteres Beispiel darf ich die Auslandsreisen erwähnen, welche trotz der Befürwortung des Tribunals bisher zur Durchführung zu bringen praktisch unmöglich waren, weil es entweder an den Devisen fehlte, oder an den nötigen Pässen und Visa. Auf diesen letzteren Punkt darf ich für die Verteidigung vielleicht in einem späteren Zeitpunkt nochmals zurückkommen, nachdem die hierüber immer noch laufenden Bemühungen und Verhandlungen entweder zu einem positiven oder negativen Ergebnis gekommen sind.

Mit der heutigen Eingabe darf ich an das Tribunal nur den Antrag und die Bitte richten, im Rahmen seiner Möglichkeiten die oben geschilderten, für die Verteidigung nicht tragbaren Zustände zu beseitigen, welche durch die aus der anliegenden Bekanntmachung vom 12. März 1948

- 3 -

ersichtlichen Befehle der britischen und franzoesischen
Besatzungsbehoerden fuer die Verteidigung entstanden
sind.

Fuer die Gesamtverteidigung
im I.G.-Prozess:



(Dr. Rudolf Dix)

1 Anlage

385
⑪
Abschrift

12 March 1948

SUBJECT: Travel Orders

TO : All Defense Counsel

1. The instructions issued relative to travel orders on 8 March, 1948, are amended as follows:

- a.) Travel orders issued by the Adjutant of G.C.C.W.C. are valid in the U.S., British and French Zones.
- b.) Travel on military trains is authorized only on those trains operated by the U.S. Army.
- c.) When application for travel orders is made, the names of the witnesses need not be given.
- d.) In accordance with Par. 4, Cir. 13, Hq. EUCOM, counsel must obtain clearance from the nearest Public Safety Officer in the British Zone or the nearest Liaison Officer in the French Zone prior to interrogating witnesses in those two zones.
- e.) After travel orders have been issued to counsel and prior to leaving Nuernberg, he should obtain an endorsement of his orders from Mr. H. Mercer, Room 338, for the British Zone or Monsieur de Bonnechose, Room 339, for the French Zone. This will facilitate obtaining clearance from the local Public Safety Officer or Liaison Officer.
- f.) It is emphasized that the endorsement mentioned in Par. (e) is not to be construed as giving authorization for interrogations. Only the officials referred to in Par. (d) above can give this authorization.
- g.) All counsel are warned that any deviations from or violations of the above regulations may result in their apprehension and punishment. This office or AG Travel Branch in Berlin will not assume any responsibility for counsel who are found to be guilty of acting contrary to the above regulations.

Robert G. Schaefer
Major, MI
Chief, Defense Center

Room 14

386

Ilgner

Is sick, no working, no
exercise, must lay to bed -
for 3 days.

$$\frac{8.}{IV.}$$

48. FILED 12 April 1945

Secretary General
for Military Tribunal
Nürnberg, Germany

H. Hoffmann

1749

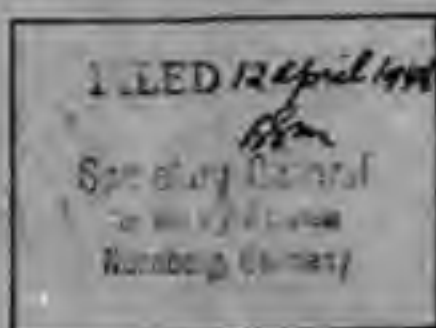
387

387

PRISON DOCTOR.
DR. STANDKE.

NUERNBERG, D. 12. 4. 46

ILLGNER I I.G. CASE I SICK IN BED.
DIAGNOSIS. COLD.



H. Handt

1750

1750

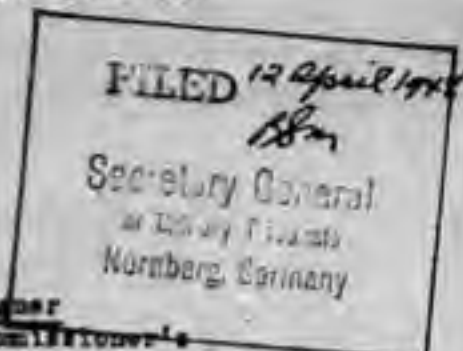
UNITED STATES MILITARY TRIBUNALS

APO 808A, c/o Postmaster, New York

Johnson T. Crawford
Judge
Military Tribunal I

9 April 1948

TO: Judge Curtis Shaks
FROM: Judge J. T. Crawford
SUBJECT: Attendance of Defendants Max Ilgner
and Heinrich Gattineau at Commissioner's
Hearing



1. It has been requested by the Defense Administrator to release Max Ilgner and Heinrich Gattineau from court currently held in courtroom 600 in order that these defendants may be present at the Commissioner's Hearing 1:30 p.m. this afternoon, 9 April, courtroom 295.

2. It is hereby requested by the Commissioner that this request be granted if favorable to Tribunal VI.

J. T. Crawford
Judge J. T. Crawford
Commissioner to Tribunal VI

9 Apr -
Record
Order

At the request of Judge Crawford permission is granted for the apts Ilgner and Gattineau to attend at Com's hearing this P.M., if they so desire

1751

Shaks

389

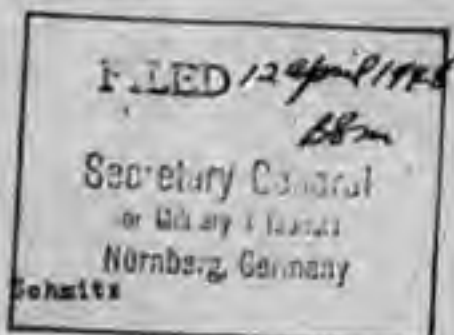
UNITED STATES MILITARY TRIBUNALS

APO 695A, c/o Postmaster, New York

Johnson F. Crawford
Judge
Military Tribunal I

8 April 1948

TO: Judge Curtis Shake
FROM: Judge J. F. Crawford
SUBJECT: Attendance of Defendant Herman Schmitt
at Commissioner's Hearing



1. It has been requested by the Defense Administrator to release Herman Schmitt from court currently held in courtroom 600 in order that he may be present at the Commissioner's Hearing 1:30 p.m. 9 April, courtroom 295.

2. It is hereby requested by the Commissioner that this request be granted if favorable to Tribunal VI.

J. F. Crawford
Judge J. F. Crawford
Commissioner to Tribunal VI

/s/ Approved in open court 9 April 1948

Marion De Vries
Assistant Secretary General
Tribunal VI

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

Roll 109

Target 2

Official Court File

Volume 50

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NURNBERG

**CASE No. 6 TRIBUNAL VI
U.S. vs CARL KRAUCH et al
VOLUME 50**

OFFICIAL COURT FILE

Doc. 390-431

MILITARY TRIBUNALS

Nurnberg, Germany

Tribunal VI, Case 6

UNITED STATES OF AMERICA

Against

Karl Krauch et al.

FILED 13 April 1948 with
SECRETARY GENERAL
for Military Tribunals
Defense Center

390

①

Defendant's Application for Subpoena for Witness

TO: The Secretary General, Military Tribunals:

I, Dr. Alfred Seidl attorney for Dr. Walther

Guerrfield hereby request that follow
(Name of Defendant)

ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Adolf T a u b

Occupation and last known Location:

Paris XI, 5 Rue Stanislas Meunier, France c/o Hufnagel

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Labor conditions in the Auschwitz plant.

These facts are relevant to the defense for the following reasons:

13 April 1948

(Date)

/s/ Dr. Seidl

Signature of Defendant's Counsel

DEFENSE NOTIFIED

Division of Tribunal

Presiding Judge.

16 Apr 1948 1753

Order written
13 Apr

390 ✓
②

Antrag eines Angeklagten zur Zeugenverladung

Ich, Dr. Alfred Seidl --Verteidiger fuer Dr. Walther Duerfeld

Adolf Taub

Weitere Angaben die zur Auffindung des benannten Zeugen dienen können:

Diese Tatsachen sind aus folgenden Gründen erheblich fuer die
Verteidigung:

R. Seidl

~~Vergrößerung des fürstlichen~~
Beschluss des Gerichtshofs

1754

Case 6

391

①

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
13 APRIL 1948

THE UNITED STATES OF AMERICA

- vs. -

ERICH KRAUSE, et al.,

Defendants.

Case No. 3

FILED *13 April 1948* with
Secretary General
for Military Tribunals
Disposal Center

ORDER

Dr. Otto Helte, Counsel for the Defendant Heinrich
Heerlein, has petitioned the Tribunal to permit Dr. Heerlein
to be absent from the trial on Wednesday, 14 April 1948, and
to have him transferred to the General Hospital at Nurnberg,
not later than 1200 hours on said day for a medical exami-
nation by Dr. Steichale.

It appearing to the Tribunal that this request is
proper, said petition is granted and the Director of the
Prison is requested to take the necessary steps to carry
out this order.

Curtis G. Shaker
CURTIS G. SHAKER
Presiding

Dated this 13th day of April 1948

PROSECUTION NOTIFIED

13 April 1948 LOR

DEFENSE NOTIFIED

Dr. Dr. Otto Melte
Defense Counsel at the
Military Tribunal
Nuernberg.

391 ②
FILED 13 April 1948 with
Secretary General
for Military Tribunals
Defense Center

Nuernberg, 13th of April 1948

To
Military Tribunal VI
Nuernberg

Subject: Case Nr. 6, against Krauch et al
Defense of the Defendant Prof. Dr. Heinrich Hoerlein.

Last week you permitted Prof. Hoerlein to be absent from the sessions
in order to undergo a medical examination.

There was a mistake. Prof. Hoerlein was transferred into the X-ray-
Department of the General Hospital of Nuernberg, though this was neither necessary
nor ordered.

The physician in charge is Dr. Steichels, the director of the Surgical
Clinics. He has operated Prof. Hoerlein six month ago. Now the same symptoms have
arisen. An inquiry has to be made as to whether an operation has to be performed
immediatly or if and how long this can be deferred.

I request

to permit Prof. Hoerlein to be absent from the trial from
Wednesday 11 o'clock and
to order that Prof. Hoerlein be transferred into the General
Hospital of Nuernberg on Wednesday, 14th of April, not later
than 12 o'clock, for medical examination by Dr. Steichels.

(Dr. Otto Melte)

Dr. Dr. Otto Helte
Verteidiger am Militaer-
gerichtshof in
Nuernberg.

391
③
FILED 13 April 1948 with
Secretary General
for Military Tribunals
Defense Counsel

Nuernberg, den 13. April 1948

An den
Militaergerichtshof Nr. VI
Nuernberg

Betr.: Fall Nr. 6 Verfahren gegen Krauch und Andere
Verteidigung des Angeklagten Prof. Dr. Heinrich Hoerlein

Sie hatten in der vergangenen Woche genehmigt, dass Professor
Hoerlein von der Teilnahme an den Sitzungen fuer die Dauer einer aerstlichen
Untersuchung befreit sein sollte.

Es gab ein Missverstaendnis. Prof. Hoerlein wurde in das Allgemeine
Krankenhaus der Stadt Nuernberg gebracht und zwar zur Roentgenabteilung, obwohl dies
aerstlich weder erforderlich, noch angeordnet war.

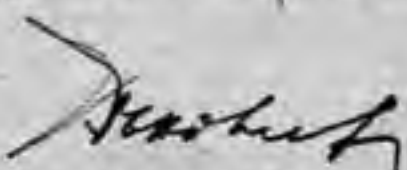
Der zustaeendige Arzt ist Dr. Steichele, der Direktor der Chirurgi-
schen Klinik. Dr. Steichele hat Prof. Hoerlein auch vor einem halben Jahr operiert.

Es handelt sich jetzt um dieselben Symptome. Zunaechst muss festgestellt werden,
ob eine Operation sofort erfolgen muss oder wie lange eine solche noch verschoben
werden kann.

Ich bitte daher, zu genehmigen:

dass Professor Hoerlein morgen - Mittwoch - ab 11 Uhr von der Teilnahme an
der Sitzung beurlaubt wird und anzuordnen:

dass Professor Hoerlein am Mittwoch, den 14.4. in das Allgemeine Krankenhaus
der Stadt Nuernberg zur Untersuchung durch den Direktor der Chirurgischen
Klinik, Dr. Steichele, gebracht wird und zwar so, dass er um 12 Uhr im Kranken-
haus ist.


(Dr. Otto Helte)

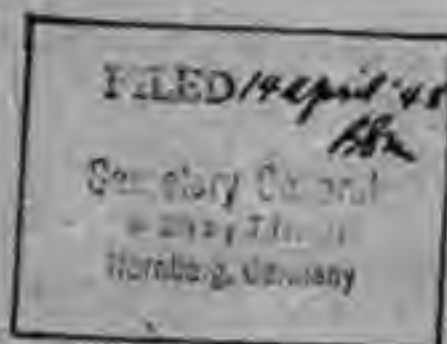
ROOM 47

392

K U E H N E

IS SICK, KAN NOT GO TO COURT, NO EXERCISE FOR
2 DAYS.

13/4.48.

*[Handwritten signature]**[Handwritten signature]*

1758

PRISON DOCTOR.

DR. STANDKE

NUERNBERG, D. 14. 4. 48

V.D. HEYDE I. G. I SICK IN BED.

DIAGNOSIS. COLD



h. Standke

1759

1759

PRISON DOCTOR.
R. STANDKE.

NURNBERG, D. 15. 4. 48

V.D. HEYDE SICK IN BED.
BRONCHITIS.



Case 6

1760

PRISON DOCTOR.

R. STANDKE.

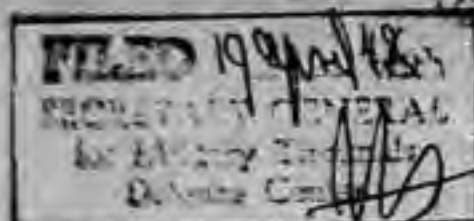
NUERNBERG, D. 16. 4. 48.

GAJEWSKI [I.G. CASE.] SICK IN BED.
COLD.

*G. Handl*

1761

MILITARY TRIBUNAL
Hannover, Germany
Tribunal VI Case 6



UNITED STATES OF AMERICA

Against

Kraus et al.

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunals:

I, Dr. Karl Hoffmann attorney for Dr. v.d. Heyde

_____, hereby request that following person
(Name of Defendant)

be summoned by the Tribunal to give evidence in the Defendant's behalf:

Name of Person Desired as Witness:

Dr. Rudolf F. A. B. C.

Occupation and Last Known Location: Stuttgart-Bad Cannstatt,
Dennerstr. 38

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts;
Relations of Dr. von der Heyde toward the SD (Security Service).

These facts are relevant to the defense for the following reasons:
To refute the Prosecution's allegation that von der Heyde had been active
with the Security Service (SD).

16.4.48

(Date)

/s/ Dr. Hoffmann

Signature of Defendant's Counsel

Decision of Tribunal

Presiding Judge

DEFENSE NOTIFIED
26 April 48

1762

✓
396
②
MILITÄRGERICHTSHOF
Nürnberg, Deutschland
Tribunal VI Case 6

VEREINIGTE STAATEN VON S. BUNDA

gegen
Krauch u.a.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsdirektor des Militärgerichtshofes:

Ich, Dr. Karl Hoffmann, Verteidiger für Dr. v. d. Heyde

(Name des Angeklagten), beantrage hiermit, dass die

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen des Angeklagten vorgeladen werde:

Dr. Rudolf P a h r

Heimat und letztbekannter Wohnort:
Ludwigshafen

Weitere Angaben die zur Auffindung des benannten Zeugen dienen können:

Die oben benannte Person weiss ueber die folgenden Tatsachen Bescheid:

Beziehungen von Dr. von der Heyde zum SD

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Zur Widerlegung der Behauptung der Anklage,
dass von der Heyde aktiv im SD tätig gewesen ist.

15.4.48

(Datum)

Unterschrift des Verteidigers
Beschluss des Gerichtshofs

abgeschlossen, April 19-1948

Vorsitzender Richter

1763

DEFENSE NOTIFIED 22 April 48

MILITÄRGERICHTSHOF
Nürnberg, Deutschland
Tribunal VI Case 6
VEREINIGTE STAATEN VON AMERIKA

gegen
Kranich u.a.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:
Dr. Karl Hoffmann Verteidiger fuer Dr. Erich von der Heyde
Ich, _____

_____, beantrage hiermit, dass die
(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen des Ange-
klagten vorgeladen werde:

Hermann Enderle, Vilsingen b. Sigmaringen / Hohenzollern
Beruf und letztbekannter Wohnort:

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person weiss ueber die folgenden Tatsachen Bescheid:
Enderle war Vorgesetzter von der Heydes während seiner
Militärzeit von 1941 / 45

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:
Stellung Dr. von der Heydes während seiner Einberufung
zur I.G. Farbenindustrie

16.4.48
(Datum)



Unterschrift des Verteidigers
Beschluss des Gerichtshofs

MILITARY TRIBUNAL

Munich, Germany

Tribunal VI Case 5

UNITED STATES OF AMERICA

Against
Krauch et al.

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunal:

I, Dr. Karl Hoffmann attorney for Dr. Erich von

der Heyde

, hereby request that following person
(Name of Defendant)

be summoned by the Tribunal to give evidence in the Defendant's behalf:

Name of Person desired as Witness:

Hans Isenhardt

Occupation and last known location:

Munich/Land, Harbecherweg 16 c/o Meglo

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:
Dr. v. Heyde's membership in the SS Cavalry Column Mannheim

These facts are relevant to the defense for the following reasons:
To refute the Prosecution's allegation that von der Heyde had not been
a member of the "Reitersturm", but of the SD (Security Service).

16. 4. 48

(Date)

/s./ Dr. Hoffmann

Signature of Defendant's Counsel

Decision of Tribunal

Approved.

Louis H. Shale

1766

20 April 1948

Presiding Judge

DEFENSE NOTIFIED 22 April 48

MILITÄRGERICHTSHOF
 Magdeburg, Deutschland
Tribunal VI Case 6
VEREINIGTE STAATEN VON AMERIKA

fegen
Kranich u.a.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalschreiber des Militärgerichtshofes:

Dr. Karl Hoffmann
 Ich, Verteidiger fuer Dr. Erich von der Heyde

(Name des Angeklagten), beantrage hiermit, dass die

nachfolgend benannte Personen vom Gerichtshof zur Aussage in Sachen des Angeklagten vorgeladen werden:

Hans Kammerer, Marburg / Lahn, Marbacherweg 16 b. Naglo
 Beruf und letztbekannter Wohnort:

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person weiss ueber die folgenden Tatsachen Bescheid:

Mitgliedschaft von Dr. v. d. Heyde im SS-Reitersturm
Mannheim

Diese Tatsachen sind aus folgenden Gruenden erhellen fuer die
 Verteidigung:

Zur Widerlegung der Behauptung der Anklage, dass
von der Heyde Mitglied des SD und nicht Mitglied
des Reitersturms war.

16.4.48

(Datum)

Unterschrift des Verteidigers
Beschluss des Gerichtshofs

1767

Vorsitzender Richter

MILITARY TRIBUNAL

Munich, Germany

Tribunal VI Case 6

UNITED STATES OF AMERICA

Against

French et al.

Defendant's Application for Summons for Witness

To: The Secretary General, Military Tribunal:

I, Dr. Karl Hoffmann attorney for Dr. Erich von

der Heyde, hereby request that following person
(Name of Defendant)

be summoned by the Tribunal to give evidence in the Defendant's behalf:

Name of Person Desired as Witness:

Friedrich Silber

Occupation and Last Known Location:

Attorney-at-Law, Nurnberg, Harrigstr. 15

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts;
Position of Erich von der Heyde at Plant NW 7 of the IG-Farben.

These facts are relevant to the defense for the following reasons:
To refute the Prosecution's allegation that von der Heyde had worked
for the Security Service (SD).

14.4.48

(Date)

/s./ Hoffmann

Signature of Defendant's Counsel

Decision of Tribunal

Approved.

DEFENSE NOTIFIED

20 April 1948

52
MILITÄRGERICHTSHOF
Nürnberg, Deutschland
Tribunal VI Case 6

VEREINIGTE STAATEN VON AMERIKA

gegen
Krauch u.a.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Karl Hoffmann Verteidiger für Dr. Erich von der Heyde

(Name des Angeklagten), beantrage hiermit, dass die

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen des Angeklagten vorgeladen werde:

Rechtsanwalt Friedrich Silcher

Beruf und letztbekannter Wohnort:
Nürnberg, Harrigstr. 15

Weitere Angaben die zur Auffindung des benannten Zeugen dienen könnten:

Die oben benannte Person weise über die folgenden Tatsachen Bescheid:

Stellung Dr. Erich von der Heydes im Betrieb NW 7
der I.G. Farbenindustrie

Diese Tatsachen sind aus folgenden Gründen erheblich für die
Verteidigung:

Zur Widerlegung der Behauptung der Anklage,
dass von der Heyde für den SD gearbeitet hat.

14.4.48

(Datum)

[Signature]
Unterschrift des Verteidigers
Beschluss des Gerichtshofs

1769

Vorsitzender Richter

PRISON DOCTOR.

R. STANKE

4000
NUERNBERG, D. 19. 4. 48

BUERGIN - I.G. CASE - SICK IN BED.
COLD.



H. Hand

1770

Case 6

SON DOCTOR,
STANDKE.

400
②
NUERNBERG, D. 19. 4. 48

GAJEWSKI I I. G. CASE I SICK IN BED.
COLD.

Händler

PRISON DOCTOR.

DR. STANOKE.

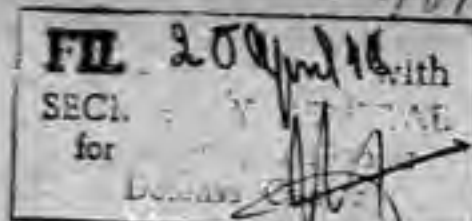
400
③
NUERNBERG, D. 19.4.48.

V. KNIERSEM I I.S. CASE. I SICK IN BED.
BRONCHITIS.

H. Handke

MILITARY TRIBUNAL 13

Munich, Germany



Tribunal No. VI Case No. 6

UNITED STATES OF AMERICA

Against

Krauch et al.

Defendant's Application for Subpoena for Witness

To: The Secretary General, Military Tribunal:

I, Helmut Henze attorney for Dr. Hans Kugler

_____, hereby request that following person
(Name of Defendant)

be subpoenaed by the Tribunal to give evidence in the Defendant's behalf:

Name of Person Desired as Witness:
Richard von Weizsäcker

Occupation and last known location:
Oberhausen/Carlsruhe, Jagdhaus

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:
Organization and activity of the Dyestuff Sales Combine of the IG, com-
mercial and political attitude of my client with respect to the various
para in count I of the indictment

These facts are relevant to the defense for the following reasons:
To refute the Prosecution's charges.

Munich 16 April 1948

(Date)

/s./ Henze

Signature of Defendant's Counsel

Decision of Tribunal

20 Apr 1948

1773

Presiding Judge

DEFENSE NOTIFIED 23 April 48

MILITÄRGERICHTSHOF
Ebernburg, Deutschland
Tribunal No. VI Case 6

VEREINIGTE STAATEN VON AMERIKA

gegen

Krenck u.a.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Helmut Henze Verteidiger fuer Dr. Hans Krenck

, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Richard von Seilvinyi, Oberdreuburg/Kaernten, Jagdhaus

Beruf und Wohnort:

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

./.

Die oben benannte Person weiss ueber die folgenden Tatsachen Bescheid:

Organisation und Taetigkeit der Verkaufsgemeinschaft Farben der IO
geschaefliche und politische Haltung meines Mandanten im Hinblick
auf verschiedene Punkte des Anklagepunktes I.

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Widerlegung der von der Anklage vorgebrachten Vorwurfe.

Ebernburg, 16. April 1948.

(Datum)

Henze
Unterschrift des Verteidigers
Rechtsanwalt

Beschluss des Gerichtshofs

1774

Vorsitzender Richter

ROOM 49

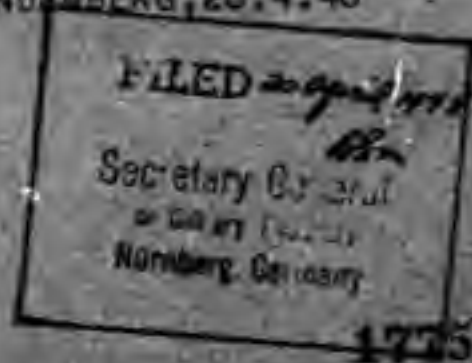
GAJEWSKI

402

①

IS SICK AND CANNOT GO TO COURT. MUST LAY TO BED.
NO EXERCISE.

NURNBERG, 20.4.48



Case 6

ROOM 30

V. KNIERIEM

402

③

IS SICK NOEXERCISE, MUST LAY TO BED, CANNOT GO TO COURT.
FOR ONE DAY.

NURNBERG, 20.4.48

Dr. Hoffmann

ROOM 25.

O S T E R

402
③

IS SICK, CANNOT GO TO COURT, NO EXERCISE.
HAS TO LAY TO BED.
FOR 3 DAYS

NURNBERG, 20.4.48

[Handwritten signature]

1777

6

MILITARY TRIBUNALS

Munich, Germany

Case No. 8, Tribunal VI

UNITED STATES OF AMERICA

Against

Carl Krauch et al.

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunals:

I, Dr. Conrad Boettcher attorney for _____

Carl Krauch, hereby request that following person
(Name of Defendant)

be summoned by the Tribunal to give evidence in the Defendant's behalf:

Name of Person Desired as Witness:

Dr. Willi Handloser

Occupation and last known location:

Merchant, Stuttgart, Kraehersalderstr. 227

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts;

Activity of the Gehechamie in the field of the employment
of foreign laborers in firms, particularly in France.

These facts are relevant to the defense for the following reasons:

For presentation of evidence as to count III of the indictment.

21 April 1948

(Date)

(s) Boettcher

Signature of Defendant's Counsel

Decision of Tribunal

1778
Presiding Judge

DEFENSE NOTIFIED 27 April 48

VERBUNDENE STAATEN VON AMERIKA

gegen
Carl Krauch et al.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Conrad Boettcher Verteidiger fuer Carl Krauch

_____, beantrage hiermit, dass die
(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Dr. Willi Handloser, Kaufmann,

Beruf und Wohnort:
Stuttgart, Kraehewaldstr. 227

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person weiss ueber die folgenden Tatsachen Bescheid:

Taetigkeit des Gebechemie auf dem Gebiet des Firmen-
einsatzes auslaendischer Arbeiter, speziell in Frankreich

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Zur Beweisfuehrung zu Pkt. III) der Anklage

21. April 1948

(Datum)


Unterschrift des Verteidigers

Beschluss des Gerichtshofs

North Star, Germany

Case No. 6, Tribunal VI

UNITED STATES OF AMERICA

Abstract

Carl Krauch et al.

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunals:

Dr. Conrad Beecher attorney for

Carl Krauch, hereby request that following person
(Name of Defendant)

be summoned by the Tribunal to give evidence in the Defendant's behalf;

Name of Person desired as Witness:

Otto Kirchner

Occupation and Last Known Location:

Merchant, Ludwigsburg near Stuttgart, Aspergerstr. 48

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts;

Activity of the Gebechemie in the field of the employment of
foreign labor in firms.

These facts are relevant to the defense for the following reasons:

For presentation of evidence to count II of the indictment.

21 April 1948

(Date)

(a) Boettcher

Signature of Defendant's Counsel

Division of Tribunal

Prosil 12780c

26 Apr 1948

VEREINIGTE STAATEN VON AMERIKA

gegen
Carl Krauch et al.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Conrad Boettcher Verteidiger fuer Carl Krauch

, beantrage hiermit, dass die
(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Otto Kirschner

Beruf und Wohnort:
Kaufmann, Ludwigsburg b. Stuttgart, Aspergerstr. 4B

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

Die oben benannte Person weiss ueber die folgenden Tatsachen Bescheid:

Taetigkeit des Geboehens auf dem Gebiet des

Firmeneinsatzes auslaendischer Arbeiter

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung:

Zur Beweisfuehrung zu Pkt. III) der Anklage

21. April 1948

(Datum)


Unterschrift des Verteidigers

Beschluss des Gerichtshofs

405

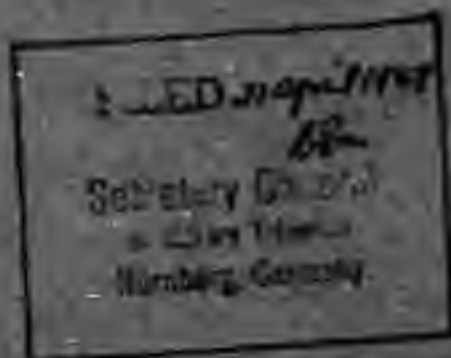
①

PRISON DOCTOR.

DR. STADKE.

NUERNBERG, D. 21. 4. 43.

GAJEWSKI F.G. GASE [SICK IN BED,
EOLD.



N. Stadke

PRISON DOCTOR.

MUEHNSBERG, D. 21.4.48.

V. KRIEDEM 21. 4. CASE 2 SICK IN BED.
BRONCHITIS.

405

②

H. H. H.

PRISON DOCTOR.

DR. STANKE.

405
③
NUERNBERG, 021.4.48.

OSTER I. G. CASE SICK IN BED.
BRONCHITIS.

H. H. H. H.

MILITARY TRIBUNAL

Nurnberg, Germany

Case No. 6 Tribunal No. VI

UNITED STATES OF AMERICA

Against

Krauch et al.

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunal:

I, Dr. Walter Siemers attorney for

Dr. Georg von Schnitzler, hereby request that following person
(Name of Defendant)

be summoned by the Tribunal to give evidence in the Defendant's behalf:

Name of Person Desired as Witness:

Jesco von Puttkamer

Occupation and last known location:

Tradesman and author, presumably Landsberg prison

Other information that may aid in locating the Person named:

v. Puttkamer was sentenced to 30 years imprisonment by the US
Military Commission sitting in Shanghai during the period from
26 August 1946 until 17 Jan 1947.

The person above named has knowledge of the following facts:

Herr v. Schnitzler's activity with the Association for Sales Improve-
ment as well as the sphere of activity of said association.

These facts are relevant to the defense for the following reasons:

To refute the documents introduced in Vol. 49 of the Prosecution
Documents in connection with the charges raised against the
Association for Sales Improvement and its alleged espionage activi-
ties.

Nurnberg 23 April 1948

Dr. R. v. Keller

Signature of Defendant's Counsel
Assistant Defense Counsel

Decision of Tribunal

APPROVED FOR PRODUCTION OF WITNESS IF HE IS
UNAVAILABLE; IF NOT FOR TAKING OF HIS DEPOSITION
6
28 Apr. 1948 — 1785
Lewis P. Shale
Presiding Judge

406
①
FILED 23 April with
SECRETARY GENERAL
Very Urgent Trial
Defense Center

DEFENSE NOTIFIED 29 April 48

gegen
Krauch u.a.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Walter Siemers Verteidiger fuer Dr. Georg von

Schnitzler, beantrage hiermit, dass die

(Name des Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in Sachen
des Angeklagten vorgeladen werde:

Jesco von Puttkamer,

Beruf und Lebensbekannter Wohnort:

Kaufmann u. Schriftsteller, vermutlich Gefangnis Landsberg

Weitere Angaben die zur Auffindung des benannten Zeugen dienen koennen:

v. Puttkamer wurde von einer Militaerkommission der Vereinigten

Staaten v. Amerika, die zwischen dem 26.8.46 und dem 17.1.47 in

Shanghai tagte, zu 30-jaehrigen Kerker verurteilt.

Die oben benannte Person wies ueber die folgenden Tatsachen Bescheid:

Betaetigung von Herrn v. Schnitzler in der Gesellschaft fuer

Verkaufsfoerderung und Taetigkeit dieser Gesellschaft selbst.

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer die
Verteidigung: Gegen die

Im Zusammenhang mit der Gesellschaft fuer Verkaufsfoerderung

und deren angeblicher Spionagetaetigkeit im Band 49 der

Anklagedokumente vorgelegten Urkunden.

Anlagepunkt I.

Munich, den 23. April 1948

(Datum)

R. H. Keller
Unterschrift des Verteidigers
(Dr. R. v. Keller)

Beschluss des Gerichtshofs Assistant defense counsel.

Vorsitzender Richter

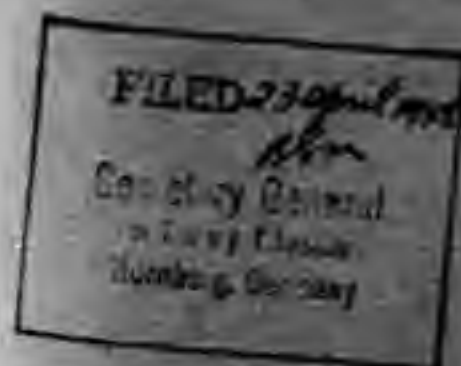
407
③

CON DOCTOR.

STANDKE.

MUEANBERG, D. 23. 4. 48.

GAJESSKI I. G. CASE. I SICK IN BED.
BRONCHITIS.



H. Standke

SON DOCTOR.

STANDKE.

407
WUERMBERG, D. 22. 4. 48.

GAJEWSKI I I.G. CASE I SICK IN BED.
COLD.

h. Hanel

1788

Case 6

407
HISON DOCTOR.
R. STADKE.

MUERNBERG, D. 22. A. 48.

V. KNIERIM 3 I.R. CASE 1 SICK IN BED.
BRONCHITIS.

h. Handt

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Against

Brecht and others

Nuernberg, Germany

Case Number 6

Tribunal No. VI

408
①
FILED ^{sf} 23 Apr 46 with
Secretary General

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL
of Military Tribunal
Defense Center

Dr. Erich Kordt, counsel for Fritz ter Meer

one of the above-named defendants, having requested this Tribunal

that Dr. Ernst Breime, whose address is

Fourth, Goltzstr., 3, be entered and approved

on the records of the Military Tribunal as his assistant,

IT IS ORDERED that the said Dr. Ernst Breime be,
and he hereby is, approved as assistant attorney for said

Fritz ter Meer to represent him with respect to the
charges pending against him under the indictment filed herein.

Dated:

22 April 1946

Quinn T. Harner
Presiding Judge

PROSECUTION NOTIFIED

DEFENSE NOTIFIED
23 Apr 46 - sf

MILITARY TRIBUNAL

UNITED STATES OF AMERICA

against

Krauch, and others

Nuremberg, Germany

Case No. VI

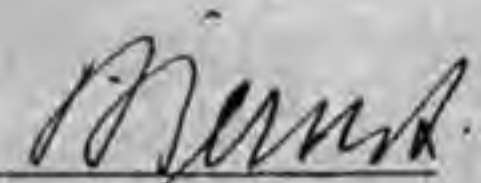
Military Trib. No. VI

APPLICATION FOR APPROVAL OF
ASSISTANT DEFENSE COUNSEL

Come now Dr. Erich Berndt and states to the Tribunal that
he is attorney for Dr. Fritz ter Meer one of the de-
fendants in the matter of United States of America vs. Krauch et al.
et al. That it is necessary that he have an assistant
counsel in this matter.

THEREFORE, Dr. E. Berndt makes application to the Tri-
bunal for the approval of Dr. Ernst Braune as his assistant counsel
to assist him with respect to the charges pending against Dr. ter Meer
et al. in the above-named indictment.

Date: 19 April 1945


Dr. Erich Berndt
Defense Counsel

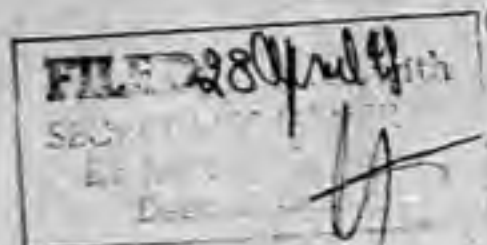
MILITARY TRIBUNALS

Nurnberg, Germany

Case No. 6 Tribunal VI

UNITED STATES OF AMERICA

Against



Defendant's Application for Summons for Witness

To: The Secretary General, Military Tribunals:

I, Karl Hoffmann attorney for Dr. v.d. Heyde

_____, hereby request that following person
(Name of Defendant)

be summoned by the Tribunal to give evidence in the Defendant's behalf:

Name of Person Desired as Witness:

Gustav Adolf Kossak

Occupation and last known location:

Justice Jail, Palace of Justice, Nurnberg

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Questions concerning the organization of the SS.

These facts are relevant to the defense for the following reasons:

Securing of an affidavit about membership in the SS.

27 April 1948

(Date)

(s) Hoffmann

Signature of Defendant's Counsel

Decision of Tribunal

DEFENSE NOTIFIED

4 May 1948

President of Tribunal

29 Apr. 1948

W. B. Hake

200 21.4
Secretary General

gegen

Eintrag eines Angeklagten zur Zeugenvernehmung

An den Generalsekretär des Militärgerichtshofes:

Ich, Karl Hoffmann Verteidiger für Dr. v. d. Horde

(Name des Angeklagten), beantrage hiermit, dass die

nachfolgendbenannte Person vom Gerichtshof zur Aussage in Sachen des
Angeklagten vorgeladen werde:

Gustav Adolf Noske

Beruf und letztbekannter Wohnort:

Militärgefangnis Gerichtsgebäude Altmannberg

Weitere Angaben die zur Auffindung des benannten Zeugen dienen können:

Die oben benannte Person weise über die folgenden Tatsachen Bericht:

Fragen über Organisation der SS

Diese Tatsachen sind aus folgenden Gründen erheblich für die
Verteidigung:

Handlung eines Angeklagten
über Eingangszeit der SS

27.4.1948

(Datum)

Unterschrift des Verteidigers

Beschluss des Gerichtshofs

Vorsitzender Richter

410
①

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
22 APRIL 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

FILED 28 APR 1948 with
Secrecy Control
Case No. 8
for Military Records
Defense Center

ORDER

Ruling of the Tribunal with respect to the Motion, filed 7 April 1948, by Counsel for the Defense, regarding making available of all documents which the Prosecution still has and which have bearing upon the person and activity of the defendants represented by it.

The allegations of the petition are so broad and general that the relief sought cannot be granted or denied in terms of the petition. The Tribunal finds, however, that the petition is sufficient to challenge the obligation resting upon it to see that the defendants have reasonable access to documents of an evidentiary character which are within the control of the Tribunal.

The Tribunal has ascertained by way of independent investigation that such documents are kept and preserved in what is known as the Document Center of the Office of Chief of Counsel for War Crimes. Security requirements preclude counsel for either side having free and unrestricted access to these documents. The Tribunal does not feel free to assume the responsibility of relaxing these security regulations.

The Tribunal has further learned that as to each of the documents contained in said Document Center, the Prosecution has what it has termed a "Staff Evidence Analysis," the first three headings of which are "Title and/or General Nature" of the document, the "Date," and the "Source." Said Staff Evidence Analysis also contain other data of a confidential nature, to which counsel for the defendants are not entitled.

The Tribunal directs the Prosecution to promptly supply Defense Counsel with copies of those parts of its Staff Evidence Analysis contained under the headings quoted herein, as to all documents in the Document Center that originated in the offices or plants of I. G. Farben, excepting, however, those pertaining to particular documents which the Prosecution, in good faith, expects to use in cross-examination or in rebuttal. With possession of these Staff Evidence Analysis counsel for the Defense will be enabled to examine and make copies of any documents in said Document Center which they deem necessary in the trial of the case. When cross-examination or rebuttal has been completed in any instance, the Tribunal will expect the Prosecution to then make available to the Defense any and all Staff Evidence Analysis pertaining to documents which were not offered in evidence by the Prosecution.

1794

- 1 -

410
②

- 2 -

The Tribunal feels that the relief herein granted will serve to make accessible to the defendants all documentary material within the control of the Tribunal to which said counsel are entitled to have access.



Ernest G. Thake
Presiding Judge

James Morris
Judge

Paul M. Herbert
Judge

Clarence Morris
Attorney General

Dated this 22nd day of April 1948

PROSECUTION NOTIFIED

22 April 1948 JCK

DEFENSE NOTIFIED

410
(3)

MILITARY TRIBUNALS

Munberg, Germany

UNITED STATES OF AMERICA

Against

KRAUTH and Others (Case VI)

B-1
FILED 16 April 1948
S-1

ANSWER TO A "BLANKET" APPLICATION ON BEHALF OF THE DEFENSE FOR
COPIES OF DOCUMENTS IN THE RESEARCH FILES OF THE PROSECUTION.

TO: The Secretary General, Military Tribunals (Room 281)

1. Answer is made to the motion of defense counsel dated 7 April 1948 (translation received on 12 April), requesting that the Tribunal set 20 April as a date by which the prosecution should make available for examination by defense counsel "all documents, papers, letters, notes, and other material in its possession and which originate from the files, archives, card-registries and other storing places of the former firm I.G. Farbenindustrie A.G., and all other official or private archives or card-registries, etc.".

2. This motion refers to a motion by Dr. Schubert for the defendant MUEBKE dated 2 April 1948 requesting the Tribunal to direct the prosecution to make certain documents originating in the Bitterfeld and Wolfen Plants available to the defendant MUEBKE. In its answer of 12 April to that motion, the prosecution voluntarily made arrangements whereby Dr. Schubert has access to the copies of the limited number of documents originating from the Bitterfeld and Wolfen Plants (in the Soviet Zone of Occupation) which are in our possession.

3. The prosecution opposes the motion of defense counsel of 7 April 1948 in its entirety. The motion can best be described as a "fishing expedition" operation. To grant a "blanket" application of this type would (1) lead to a reversal of long established precedents; (2) set aside practice as approved and applied since the IMT, which are well founded on good policy; (3) undermine the entire theory of privileged files of adverse parties; and (4) cause unnecessary burdens to the prosecution at a late stage in this case.

4. The general situation with respect to the availability of and accessibility to documents originating from Farben files and archives has

been the subject of both formal and informal discussions in this case from the time the indictment was issued. ~~These~~ The types of documents which the prosecution considered incriminating (or which might be considered as incriminating) was indicated to the defense by delivering hundreds of documents to the Defense Center well in advance of the trial. At the headquarters of the major Farben Works Combines at Leverkusen, Frankfurt-Hoechst, and Ludwigshafen (in the British, American and French Zones of Occupation, respectively) and elsewhere, members of the defense staff (and German personnel, friendly to the defense) have been working officially for nearly a year on the preparation of the defense in this case. The Tribunal will recall that some early problems with respect to security regulations (which the defense then claimed restrained their full exploitation of the files in Frankfurt-Hoechst) were solved after conferences among representatives of the Secretary General, the Defense Information Center, and the American Control Officers in Frankfurt. This was more than seven or eight months ago. At Leverkusen (British Zone) it has even been reported to us that the German personnel in charge of the files informed the defense of all documents which had been reproduced at the request of investigators from Nurnberg. The Tribunal only recently became more familiar with the cooperation the defense received from German personnel (as well as the authorities) who have access to the files at Ludwigshafen. We know of no substantial complaints (even informal) since the original developments at Frankfurt many months ago. In our view there can be no question but that the defense has had ample opportunity to discover any documents helpful to the defense in the Farben files in these centers. With respect to the more stringent regulations applicable in the Soviet Zone, this has been discussed informally by both sides before the Tribunal. In this connection no specific applications for particular documents or other assistance were made in a timely manner for particular help from the Secretary General or other authorities. The documents procured from the plants of the former Works Combine Central Germany, Bitterfeld, by the prosecution (unfortunately a very limited number) have been made available to the defense. (See answer to the motion of Dr. Schubert, mentioned above in paragraph 2).

5. Although this motion is entirely different from the prosecution's motion that the defense produce certain original documents removed from Farben files and archives without receipt (motion of 26 February 1948), etc., a study of the papers filed in connection with that motion have implications bearing on this "blanket" motion. The defense filed its answer to the prosecution's motion on 26 February 1948, opposing the prosecution's motion with respect to original documents. The prosecution's replication was dated 3 March 1948 (note particularly paragraph 7). The Tribunal's ruling denying the prosecution's motion was made in court on 8 March 1948 (transcript pages 8627-9). Although these formal papers and the pertinent "in chambers" discussions with both parties by the Tribunal indicate the general nature of the problem, the prosecution expressly invited the Tribunal to appoint one of its Commissioners to make a study of the extant circumstances with respect to availability of documents (paragraph 14, prosecution's replication of 3 March 1938). At that time the prosecution stated (paragraph 13) that, in its view, the most cursory investigation would indicate that the defense has had a far greater opportunity to analyze the documents in the archives of the Farben plants than the prosecution. If the Tribunal should have any doubts about the "fairness" of the situation, a very short investigation by a representative of the Secretary General's office (who might well be accompanied by a representative of the defense) should be most enlightening.

6. To avoid any misunderstanding, reference should again be made to the practice with respect to specific requests for specific documents or files of documents. No one is in a better position than these defendants to know about particular documents or groups of Farben documents which they feel may be helpful to their case. Not only the defendants, but numerous principal and assistant defense counsel and assistants, who were or still are employed at the Farben plants, are in a unique position to know what contemporaneous documents might be helpful to their case. Indeed, the prosecution would have been fortunate if in its preparation of the case it had had one-tenth of the specific knowledge of Farben documents possessed by the defense. Upon specific request for documents by the defense, the

prosecution has again and again produced copies of documents specifically requested since this saved time for the defense and was not in the nature of a "fishing expedition". This has been the historic approach to this problem by the prosecution in Nurnberg ever since IMT days. It might be pointed out that this is a quite different approach from that in the answer of the defense to the prosecution's motion of 26 February 1948 (the request for originals removed from the archives) in which the defense in effect said: "the prosecution should go back to the Document Centers and look for them" after the defense had returned the originals (excepting the revealing Auschwitz reports turned over to the Secretary General). The problem which the prosecution encountered upon returning to Ludwigshafen is another story, which might be of interest as one of many problems which a referee of the Tribunal could very quickly learn about. In several cases the prosecution procured files of original documents at the request of defense counsel so that they could be taken into conferences of the defendants and the defense counsel more readily and be screened by this means. On its part, the Tribunal has even allowed a defendant to accompany defense counsel to the Frankfurt-Griesheim center to examine and screen documents there. This history with respect to specific requests for specific documents, whether originals or copies, has become a matter of course. This should be distinguished, however, from an effort to acquire access to copies of files of documents discovered by many separate Allied agencies as well as by the half-dozen divisions of the OCCWG.

7. Granting a motion of the "fishing expedition" variety would naturally cause tremendous confusion to the staff of the prosecution. Since the IMT Trial, the document files in Nurnberg have been based upon the well established theory that "an investigating agent cannot serve two masters", a statement which was made before the IMT under similar circumstances. There have come to be more than 30,000 photostatic copies of documents in various document series, such as "PS", "HI" (over 15,000), "NG", "EO", "EC", etc. Attached to each folder there is ordinarily a confidential analysis of the prosecution concerning the documents. Even if the prosecution's own research files were to be made into a public library, and even


if additional staff were secured to segregate out particular types of material, it would be impossible to extract from these thousands upon thousands of folder-files all documents which someone might think related to Farben and which someone might conceive as originating from files of Farben "and from all other official or private archives or card-registries, etc." (sic - defense motion). The very nature and organization of these files indicate how inconceivable it was to the representatives of the American and Allied authorities, beginning with the IMT Case, that these prosecution files should ever be made available to the defense upon a "blanket" motion as distinguished from requests for specific documents otherwise not available to the defense. This motion was filed after the original date which the Tribunal set for the submission of all documents by the defense, except where the defense made specific application in unusual circumstances for processing further documents. After all these months, it seems to us rather strange and untimely that now a motion in the nature of a "fishing expedition" should be made with respect to the research files of the prosecution.

8. The defense cites the ruling (29 March 1948) of the Tribunal in Case No. XI, (U.S. versus Weizsaecker et al). Although the prosecution in that case objected (24 March 1948) to the much more limited motion made therein for some of the same reasons which are applicable here, the ruling is not in point. In the defense motion in that case (22 March 1948), the defense requested the prosecution make available to the defense copies of all documents of the German Foreign Office originating from the Document Center in Berlin which the prosecution had in its possession. The defense pointed out that only one defense representative had been allowed by the competent authorities to screen "approximately 100,000 thousand pounds of files in the German Foreign Office in Berlin", particularly since the files did not have detailed indexes. The defense stated that under such circumstances it did "not have the necessary time to work through such files and obtain copies therefrom for the documents necessary to present the defense" to the Tribunal. It pointed to the restriction on communications and travel between Nurnberg and Berlin. Further, the defense requested a postponement

of the trial because it had not had access to these basic documents. The difference in the grounds alleged in that much more limited motion from the "blanket" motion at hand are apparent. Apart from the numerous defense counsel and the assistant defense counsel approved by this Tribunal, this Tribunal is aware of the highly competent and far reaching assistance the defense has had in getting Farben archives. Secondly, the motion in the Weissacker case pointed out peculiar difficulties in respect to a specific Document Center, and hence is more comparable to the motion of Dr. Schubert for access to copies of the Bitterfeld and Wolfen documents (answered separately by the prosecution on 12 April 1948).

9. Accordingly, the prosecution respectfully submits that the procedure which has been in existence throughout this trial and in the IMT should not be altered with the result of altering conventional rules, practices, and regulations with respect to procurement of evidence in adversary proceedings. It seems to us it would be quite as reasonable for the prosecution to request the defense counsel and the defense assistants produce any copies of documents (let alone originals) which any of them have cataloged or analyzed which they thought could possibly bear on the issues in this case. The prosecution will not oppose (and has not opposed) any reasonably definite request by the defense for specific documents, but does oppose a motion in the nature of a "fishing expedition".

By:


D. A. SPEECHER
Chief, FARBER TRIAL TEAMMurnberg 15 April 1948
Date

For:

TILFORD TAYLOR
Brig. Gen. USA
Chief of Counsel

UNITED STATES MILITARY TRIBUNAL VI

N u r n b e r g

THE UNITED STATES OF AMERICA

- against -

Carl KRAUSE et al.,

1700
FILED 2 April 1948 with
Secretary General
for Military Tribunals
Defense Center

Motion of undersigned defense counsel for making available of all documents which the Prosecution still has and which have bearing upon the person and activity of the defendants represented by it.

On behalf of the defendants:

KRAUSE, SCHMITZ, GAJEWSKI, AMBROS, HAEFLIGER, OSTER, WURSTER,
v.d. HEIDE, KUGLER, SCHNEIDER, v. KNIERIM, ILONER, BOERLEIN,
TER MEER, MANN, DUEHNFELD, LAUTENSCHLAGER, JAHNE, v. SCHMITZER,
KUEHN and BUSTEFISCH

we request the High Tribunal to rule:

The Prosecution has time until 20 April 1948 to enable us, counsel representing the above defendants, to examine all documents, papers, letters, notes and other material in its possession and which originate from the files, archives, card-registries and other storing places of the former firm IG Farbenindustrie A.G., and from all other official or private archives or card-registries, etc.

Substantiation: to substantiate our motion, reference is made to the application of counsel for the defendant Dr. Ernst BUEGIN, attorney Dr. Werner Schubert, dated 2 April 1948. Reference is further made to the ruling of the Tribunal in Case XI (USA versus Ernst v. WEIZSACKER) by which this Tribunal directed the Prosecution without delay to make available to the Defense all documents of the German Foreign Office

which it had in its possession.

Nurnberg 5 April 1948

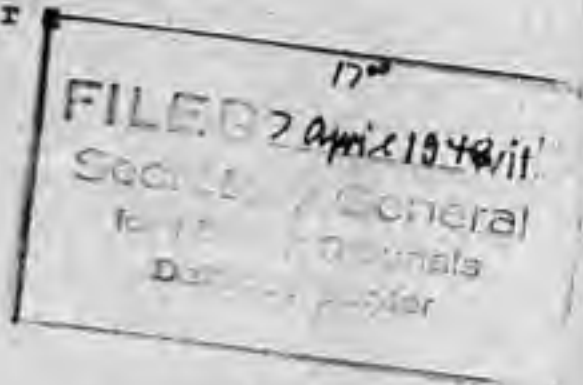
On behalf of defendants:	Dr. Carl KRAUCH	(s) Dr. Conrad Boettcher Dr. Conrad Boettcher
" " " "	Dr. Hermann SCHMITZ	(s) R. Dix Dr. Rudolf Dix
" " " "	Dr. Fritz GAJEWSKI	(s) Dr. von METZLER
" " " "	(Dr. Otto AMEROS	Dr. Wolfram von Metzler
" " " "	(Dr. Erich v. d. HEYDE	(s) Dr. Karl Hoffmann Dr. Karl Hoffmann
" " " "	Paul HAEFLIGER	(s) Dr. Wolfram v. Metzler Dr. Wolfram v. Metzler
" " " "	Dr. Heinrich OSTER	
" " " "	Dr. Hans KUEHLER	(s) Helmuth Henze RA Helmuth Henze
" " " "	Dr. Carl WURSTER	(s) Dr. Wagner Dr. Wagner
" " " "	Dr. Christian SCHNEIDER	(s) Hellmuth Dix Dr. Hellmuth Dix
" " " "	Dr. August v. KNIERIM	(s) Friedrich Silcher RA Friedrich Silcher
" " " "	Dr. Max ILONER	(s) Dr. Walter Bachem Dr. Walter Bachem
" " " "	Dr. Heinrich HOERLEIN	(s) Dr. Otto Helte Dr. Otto Helte
" " " "	Dr. F. TER MEER	(s) Dr. Erich Berndt Dr. Erich Berndt
" " " "	Wilhelm MANN	(s) Dr. Erich Berndt Dr. Erich Berndt
" " " "	Dr. Walter DUERRFELD	(s) Dr. Alfred Seidl Dr. Alfred Seidl
" " " "	Dr. Friedrich JAEHNE	
" " " "	Dr. Carl LAUTENSCHLAGER	(s) Dr. Hans Pribilla Dr. Hans Pribilla
" " " "	Dr. Georg v. SCHMITZ- LER	(s) Dr. Rupprecht v. Keller Dr. Rupprecht v. Keller
" " " "	Dr. Hans KUEHNE	(s) Dr. Guenther Lammert Dr. Guenther Lammert
" " " "	Dr. Heinrich BUEHNE- FISCH	(s) Dr. Hans Flaechner Dr. Hans Flaechner

Nurnberg 7 April 1948.

UNITED STATES MILITARY TRIBUNAL VI

M u e n c h e n

THE UNITED STATES OF AMERICA :
- against - :
Carl KRAUCH et al., :



Antrag der unterzeichneten Verteidiger
auf Vorlage aller Dokumente, die die Prosecution im Zusammenhang
mit der Person und der Tatkraft der von ihnen vertretenen
Angeklagten noch im Besitz hat.

Namens der Angeklagten:

KRAUCH, SCHWITZ, GAJEWSKI, AMBROS, HAEFLIGER, OSTER,
WURSTER, v.d. HEYDE, KUGLER, SCHNEIDER, v. KNIERIM, ILGNER,
HOERLEIN, TER MEER, MANN, DUERRFELD, LAUTENSCHLAGER,
JAHNE, v. SCHNITZLER, KUEHNE und BUETZFISCH

beantragen wir, dass das Hohe Gericht anordnen moege:

Die Anklagebehoerde hat bis zum 20. ds. Mts. uns als den Vertretern der oben genannten Angeklagten Einblick in alle Dokumente, Papiere, Schreiben, Aufzeichnungen und anderes Material zu gewahren, das sie aus den Akten, Archiven, Karteien und sonstigen Aufbewahrungstaetten der fruheren Firma I.G. FARBEINDUSTRIE A.G. und aus allen anderen sonstigen behoerdlichen oder privaten Archiven oder Karteien usw. in Besitz hat.

Begruendung: Zur Begruendung beziehen wir uns auf den Antrag des Verteidigers des Angeklagten Dr. Ernst BUERGIN - Rechtsanwalt Dr. Werner Schubert- vom 2. April 1948. Wir beziehen uns ferner auf den Beschluss des Gerichts im Fall XI (USA gegen Ernst v. WEIZSACKER)

410
(12)

durch den dieses Gericht die Anklagebehörde verpflichtet hat,
die in ihrem Besitz befindlichen Dokumente des Deutschen
Auswaertigen Amtes umgehend der Verteidigung zur Verfuegung zu
stellen.

Kuernberg, den 5. April 1948

Fuer den Angeklagten: Dr. Carl KRAUCH

[Signature]
Dr. Conrad Boettcher

" " " Dr. Hermann SCHMITZ

[Signature]
Dr. Adolf Dix

" " " Dr. Fritz GAJEWSKI

" " " Dr. Otto AMEROS

[Signature]
Dr. Wolfram von Metzler

Dr. Erich v.d. HEYDE

[Signature]
Dr. Karl Hoffmann

" " " Paul HAEFLIGER

[Signature]
Dr. Wolfram v. Metzler

" " " Dr. Heinrich OSTER

Dr. Hans KUGLER

[Signature]
RA Helmuth Henze

" " " Dr. Carl WURSTER

[Signature]
Dr. Wagner

" " " Dr. Christian SCHNEIDER

[Signature]
Dr. Hellmuth Dix

" " " Dr. August v. KNIKRIEM

[Signature]
RA Friedrich Silcher

" " " Dr. Max ILGNER

[Signature]
Dr. Walter Bachem

" " " Dr. Heinrich HOERLEIN

[Signature]
Dr. Otto Heiter

Fuer den Angeklagten: Dr. F. TER MEER

410
(13)
Berndt
Dr. Erich Berndt

" " " Wilhelm MANN:

Berndt
Dr. Erich Berndt

" " " Dr. Walter DUERFELD

Alfred Seidl
Dr. Alfred Seidl

" " " Dr. Friedrich JAEHNE

" " " Dr. Carl LAUTENSCHLAG
GER

H. Pribilla
Dr. Hans Pribilla

" " " Dr. Georg v. SCHNITZLER

H. K. Keller
Dr. Rupprecht v. Keller

" " " Dr. Hans KUEHNKE

Guenther Lammert
Dr. Guenther Lammert

" " " Dr. Heinrich HUETE-
FISCH

Hans Fleechner
Dr. Hans Fleechner

Nuernberg, den 7. April 1948.

4-11
①

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
22 APRIL 1949

THE UNITED STATES OF AMERICA

- vs. -

GARL KRAUSE, et al.,

Defendants.

FILED

Sec

Case No. 6

38 April 1949 with
General

ORDER

Rulings of the Tribunal with respect to the motions, filed 13 April 1949, by Counsel for the Defense, Rudolf Dix, regarding certain portions of the indictment pertaining to the alleged plunder of Skoda-Wetzlar and Aussenig-Palkenau; and with respect to the allegations in Count 5, relating to a common plan or conspiracy to commit war crimes and crimes against humanity.

The particulars set forth in Sections A and B of Count 5, if fully established by evidence, would not constitute a crime against humanity since these particulars relate wholly to offenses against property. Neither are they sufficient to constitute a war crime since they describe incidents in territory not under belligerent occupation by Germany.

A common plan or conspiracy does not exist as a matter of law with respect to war crimes and crimes against humanity. However, we point out that under the second paragraph of Count 5, it is alleged that the acts and conduct of the defendants set forth in Counts 1, 2 and 3, are by reference incorporated in Count 5. Therefore, evidence of such acts or conduct may, if it has probative value, be considered with respect to the alleged conspiracy or common plan to commit crimes against peace.

Quaritch E. Shute
Presiding Judge

James M. Brown
Judge

Paul M. Hebert
Judge

Clarence F. McHugh
Alternate Judge

Dated this 22nd day of April 1949

PROSECUTION NOTIFIED 1807
22 April 1949

DEFENSE NOTIFIED

Justizrat Dr. Rudolf Dix
Dr. Wolfram v. Metzler

411
②
Nurnberg 20 April 1948

United States of America

- vs -

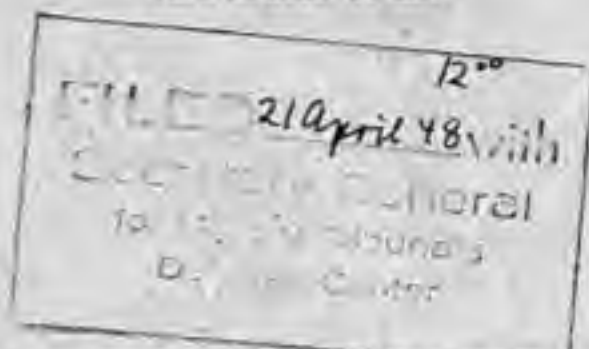
Military Tribunal VI

Carl Krauch et al.

Case 6

Nurnberg

Via Secretary General



Reply to the Prosecution's answer of 16 April 1948 to the defense motion of 14 April 1948 concerning the conspiracy count of the indictment as well as the count looting and spoliation in Austria and in the Sudetenland.

Part I: Conspiracy.

The Prosecution's statements are in no way apt to shake the viewpoint of the Defense. The Prosecution does not seem to challenge that, according to the established practice of the Nurnberg Tribunals, the conspiracy charge cannot be made with regard to war crimes and crimes against humanity since this is not in harmony with the principles developed in this matter by the IMT. The following Tribunals in Nurnberg shared the same viewpoint:

	Military Tribunal I	in Case 1
	"	III " 3
	"	II " 4
and last	"	IV " 11.

The Prosecution, who seems to be aware of this fact, endeavors to extend in the issue the conspiracy charge to counts II and III "war crimes" and "crimes against humanity" by a roundabout way via count I "crimes against peace". In the opinion of the Defense, this is a construction of the Prosecution which in view of the above-mentioned clear decisions is

untenable; for if the Prosecution were allowed through a merely different formulation of the conspiracy count to extend the concept of conspiracy to war crimes and crimes against humanity, then the practice established by the Nurnberg Tribunals could thereby be circumvented; for, from the practical point of view, it cannot be of any importance for the decision of this question whether the Prosecution expressly charges a conspiracy to commit war crimes and crimes against humanity or whether it indirectly charges these war crimes resp. crimes against humanity as part of count I of the indictment, i.e. as a means for the preparation and conduct of aggressive wars. In both cases, the result the Prosecution is aiming at is exactly the same, namely the extension of the conspiracy charge to war crimes and crimes against humanity, which is inadmissible according to the IMT verdict. The Defense therefore is of the opinion that the legal question in this case cannot be decided upon by a more or less artificial construction of the Prosecution, at variance with the above-mentioned established practice of the Nurnberg Tribunals.

The correctness of the Defense's view can obviously be seen from the repeatedly mentioned ruling of Tribunal IV in Case 11. In count II of its indictment in Case 11, Art. 25 and 26, the Prosecution chose the same construction as that used by the Prosecution in this case; I quote:

"The defendants WEIZSACKER, KEPPLER, BOHLE, WORMANN, RITTER, ERIMANSDOFF, VEESENMAIER, LAMMERS, STUCKART, DARRE, MEISSNER, DIETRICH, BERGER, SCHELLENBERG, SCHWERTIN-KROSICK, KOERNER and PLEIGER, with diverse other persons, during a period of years preceding 8 May 1945, participated as leaders, organisers, instigators and accomplices in

the formulation and execution of a common plan and conspiracy to commit, and which involved the commission of, Crimes against Peace, (including the acts constituting War Crimes and Crimes against Humanity, which were committed as an integral part of such Crimes against Peace) as defined by Control Council Law No. 10, and are individually responsible for their own acts and for all acts committed by any persons in the execution of such common plan and conspiracy.

The acts and conduct of the defendants set forth in Counts One, Three, Four, Five, Six, and Seven of this Indictment formed a part of said common plan and conspiracy and all the allegations made in said Counts are incorporated in this Count."

End of quotation.

Dr. Alfred Seidl, counsel for the defendant Dr. Lammers in Case 11, then submitted a motion requesting

".....the Tribunal to decide also in Case 11 that its competency is limited to a common plan which is aimed at the preparation and conduct of an aggressive war and which does not embrace the commission of war crimes and crimes against humanity."

End of quotation.

In reply to this, Tribunal IV in its session of 27 March 1948, transcript page 4452, made the following ruling, I quote:

"Another motion was made by Dr. Seidl in behalf of Lammers, in which various defendants, however, are interested and by which they will be affected; that is a motion with respect to Count II on the charge of conspiracy. Without extending my remarks I wish to say that the Tribunal is there asked to limit its competency, as he puts it, to a common plan aiming at the preparation and conduct of aggressive war, and not to go into the commission of war crimes and crimes against humanity insofar as the conspiracy charge is concerned. The Tribunal will grant the relief there asked for with respect to Count 2."

End of quotation.

It is unequivocally shown here that Tribunal IV irrespective of the fact that the Prosecution charged war crimes and crimes against humanity as part of conspiracy to commit crimes against peace - as this has also been done in this case - has issued a ruling which is in harmony with the hitherto established practice of the Nurnberg Tribunals.

The Defense, however, welcomes the fact that the Prosecution despite its statements on page 1 and 2 of its answer eventually seems to be of the same opinion as the Defense when it says on page 3 of its answer, I quote:

"The Prosecution in this case will join with the Defense in requesting a ruling substantially the same as that issued in Case No. 11." End of quotation.

Hence, the Defense assumes that all further statements on this subject will be unnecessary. It merely request the Tribunal, in case it is willing to grant the Defense's application, to issue the ruling in such a way that it refers to the conspiracy to commit war crimes and crimes against humanity in the formulation of count V of the indictment.

Part II: Plunder and spoliation in Austria and in the Sudetenland.

As regards this count, too, the Defense thinks being able to cut it relatively short in view of the hitherto made statements.

The charged facts of plunder and spoliation reach back to the 3rd paragraph of the enclosure to the Hague Rules of Land Warfare of 18 October 1907, in particular to articles, 46, 47 and 52, which is entitled "Military Power in Occupied Enemy Territory". The first paragraph of Article 42 of the enclosure to the Hague Regulations of Land warfare reads as follows; I quote:

"A territory is considered occupied, if it actually is in the power of the enemy army".

End of quotation.

The Defense therefore is of the opinion that the facts of plunder and spoliation presuppose the existence of a state of war and that, therefore, war crimes, within the meaning of Art. II, 1b, of Control Council Law No. 10, can only be committed in case of an occupation of a country by an enemy army i.e. in a state of war. If Control Council Law No. 10 in Art. II, 1c "Crimes against humanity" does not contain the fact of plunder and spoliation, then the Defense is of the opinion that such a fact, if judged only from the angle of crimes against humanity, is not within the jurisdiction of the Tribunal.

On page 334 of its verdict, the IMT explicitly stated that the occupation of Bohemia and Moravia has to be regarded as a military occupation which is subject to the rules of warfare within the meaning of the Hague Regulations of Land Warfare. Therefore it is unequivocally established that the occupation of the Sudetenland does not constitute such a military occupation for the simple reason that the occupation of the Sudetenland was carried out on the basis of the Munich Agreement in which, on the Allied side, France and Great-Britain participated. The Defense therefore holds there cannot be the slightest doubt as to the fact that the case of Aussig-Falkenstein can by no means, even if the Prosecution's allegations in this connection were true, be tried as war crimes, since - as has repeatedly been stated - Aussig Falkenstein is located in the Sudetenland. Since on the other hand - as already mentioned - the facts of

plunder and spoliation are not charged as crimes against humanity in Control Council Law No. 10, Art. II, 1c, thereto, in the opinion of the Defense, no legal basis whatsoever for a punishment of the alleged acts of the defendants with regard to the Aussig and Falkenau Works.

However, in the opinion of the Defense, the same must also apply to the Skoda-Wetzlar case. As regards Austria, the IMT did not determine that the occupation of Austria was a military occupation such as the occupation of Bohemia and Moravia, to which the rules of warfare are applicable within the meaning of the Hague Regulations for Land Warfare. Besides, it must be added - and this, of course, is also true for the Sudetenland case - that the Prosecution did not produce any proof that the defendants were aware of violating principles of International Law, even if we suppose that the Prosecution's assertions were correct that the Skoda-Wetzlar and Aussig-Falkenau cases constitute cases of spoliation within the meaning of International Law. It is the opinion of the Defense that in order to determine the defendants' guilt in this case it must be proven they were aware that their acts violated International Law. It would be further necessary to prove that the defendants were aware that the occupation of Austria and of the Sudetenland was an act of aggression to which the rules of warfare are applicable, if we start from the fact that these rules can be applied here. The Defense therefore is of the opinion that, even if we should agree with the Prosecution that the rules of warfare and, consequently, the Hague Regulations for Land Warfare are applicable to the occupation of Austria and of the

Sudetenland, there is no evidence showing the defendants' knowledge of the application of such rules of warfare. The Prosecution did not produce a single document showing that the defendants were informed that the occupation of Austria and of the Sudetenland - as set forth in the IMT - verdict - was a planned preparation of the Naziplan of an attack on other countries.

Besides, the Defense does not doubt that the Prosecution in the IMT trial would have declared the acts of the defendants in Austria war crimes if it had been in a legal position to do so. Insofar, the fact that these acts in Austria were only charged as crimes against humanity is of prime importance.

Even if the occupation of Austria is called an aggressive act in the IMT-verdict, it does not mean, according to the Defense, that consequently the Hague Regulations, i.e. the Rules for Land Warfare are applicable as in the case of Bohemia and Moravia; for there is a difference between those two cases; in the case of Austria, this territory was incorporated into the German Reich without leaving any sovereignty to the former Austrian state, whereas in the case of Bohemia and Moravia, these countries retained their own sovereignty which was only limited by Germany's interests as expressed by the Protectorate. A close study of the substantiation of the IMT-verdict shows the correctness of this view, for as far as the case of Bohemia and Moravia is concerned, the IMT-verdict, on page 334, verbally says, I quote:

"Hitler's decree of 16 March 1939, establishing the Protectorate, stated that this new territory (TU 51, GB 8) should 'belong henceforth to the territory of the German Reich,' an assumption that the Republic of Czechoslovakia no longer existed. But it also went on the theory that Bohemia and Moravia retained their sovereignty subject only to the interests of Germany as expressed by the Protectorate. Therefore even if the doctrine of subjugation should be considered to be applicable to territory occupied by

aggressive action, the Tribunal does not believe that this Proclamation amounted to an incorporation which was sufficient to bring the doctrine into effect. The occupation of Bohemia and Moravia must therefore be considered a military occupation covered by the rules of warfare."

End of quote.

These explanations of the IMT verdict can obviously not be applied to the Austrian case, since this country - as has already been said - completely lost its former sovereignty and did not become a Protectorate of the German Reich.

The Defense therefore fully maintains its legal viewpoint as heretofore with regard to the cases of spoliation, and requests the Tribunal to rule in favor of an acquittal.

(s) Dr. Rudolf Dix
(s) Dr. Wolfram v. Metzler

Militär-Tribunal Nr. VI
für Fall Nr. 6,

N u e r n b e r g.

12"
21 April 1948
Die VEREINIGTEN STAATEN VON AMERIKA
gegen
CARL KRAUCH et al.

Ueber: Generalsekretär.

Erwiderung auf die Antwort der Prosecution vom 15. April 1948 auf die Motion der Defense vom 14. April 1948 betreffend den Anklagepunkt der Conspiracy und den Anklagepunkt Raub und Plünderung in Oesterreich und im Sudetenland.

T e i l I: Conspiracy.

Die Ausführungen der Prosecution sind in keiner Weise geeignet, den Standpunkt der Verteidigung zu erschuettern. Die Prosecution scheint nicht bestreiten zu wollen, dass nach der feststehenden Praxis der Nuernberger Gerichte die Verschwörung in Bezug auf Kriegsverbrechen und Verbrechen gegen die Menschlichkeit nicht unter Anklage gestellt werden kann, da dies mit dem Grundsatz, wie sie das IMT zu dieser Frage entwickelt hat, nicht im Einklang steht. Diesen Standpunkt haben bisher u.a. die folgenden Tribunale in Nuernberg vertreten:

Militärtribunal Nr. I	im Fall Nr. 1
"	" III " " 5
"	" II " " 4
und zuletzt	" IV " " 11.

Die Prosecution, die sich dieser Tatsache wohl bewusst zu sein scheint, versucht, auf dem Umweg ueber den Anklagepunkt I "Verbrechen gegen den Frieden" im Ergebnis die Verschwörung auch auf die Anklagepunkte II und III "Kriegsverbrechen" und "Verbrechen gegen die Menschlichkeit" zu erstrecken. Nach Auffassung der Verteidigung handelt es sich hier um eine Konstruktion der Prosecution, die im Hinblick auf die klaren oben erwachten Entscheidungen unhaltbar ist, denn wenn es der Prosecution gestattet wurde, den Begriff der Verschwörung durch eine blosse andersartige Formulierung des Anklagepunktes der Verschwörung auch auf Kriegsverbrechen und Verbrechen gegen die Menschlichkeit zu erstrecken, so wurde damit die feststehende Praxis der Nuernber-

411
①

ger Tribunale umgangen; denn praktisch gesehen kann es fuer die Entscheidung der hier vorliegenden Frage keine Rolle spielen, ob die Prosecution ausdruesslich eine Verschwörung zur Begabung von Kriegsverbrechen und Verbrechen gegen die Menschlichkeit unter Anklage stellt oder ob sie den Umweg wahl, diese Kriegsverbrechen bzw. Verbrechen gegen die Menschlichkeit als Teil des Anklagepunktes I, d.h. als Mittel zur Vorbereitung und Fuehrung von Angriffskriegen, zu bezeichnen. In beiden Faellen ist das Ergebnis, das die Prosecution erreichen will, genau das gleiche, naemlich die nach dem IMT-Urteil unzulassige Ausdehnung der Verschwörung auf Kriegsverbrechen bzw. Verbrechen gegen die Menschlichkeit. Die Verteidigung ist daher der Auffassung, dass die hier vorliegende Rechtsfrage nicht durch eine mehr oder weniger gekuenstelte Konstruktion der Prosecution abweichend von der oben geschilderten feststehenden Praxis der Nuernberger Tribunale entschieden werden kann.

Ganz deutlich ergibt sich die Richtigkeit der Auffassung der Verteidigung aus dem bereits wiederholt erwachten ruling des Tribunals Nr.IV im Fall Nr.11. Die Prosecution hatte unter Punkt II ihres Indictment ^{und 26)} im Fall Nr.11 unter Ziffer 26) ^{und 26)} die gleiche Konstruktion gewahl, wie die Prosecution in dem hier vorliegenden Falle; ich zitiere:

"Die Angeklagten Weissacker, Keppler, Bohle, Woermann, Ritter, Erdmannsdorff, Vossenmayer, Lammers, Stuckart, Darré, Weisner, Dietrich, Berger, Schellenberg, Schwerin-Krosigk, Koerner und Flaiger beteiligten sich zusammen mit verschiedenen anderen Personen waehrend einer Reihe von Jahren vor dem 8. Mai 1945 als Fuehrer, Organisatoren, Anstifter und Beihelfer an der Aufstellung und Durchfuehrung eines gemeinsamen Planes und einer Verschwörung, Verbrechen gegen den Frieden im Sinne des Kontrollratsgesetzes Nr.10 zu begehen, eines gemeinsamen Planes und einer Verschwörung, die die Begabung eines solchen Verbrechens gegen den Frieden im Sinne des Kontrollratsgesetzes Nr.10 tatsaechlich zur Folge hatten (einschliesslich der Taten, die Kriegsverbrechen und Verbrechen gegen die Menschlichkeit darstellen und die als untrennbarer Bestandteil solcher Verbrechen gegen den Frieden begangen wurden); sie sind persoenlich fuer ihre eigenen Handlungen und fuer alle Handlungen, die von irgendwelchen Personen bei der Ausfuehrung eines solchen gemeinsamen Plans und einer solchen Verschwörung begangen wurden, verantwortlich.

Die Taten und die Handlungsweise der Angeklagten, wie sie in den Anklagepunkten Eins, Drei, Vier, Fuenf, Sechs und Sieben dieser Anklageschrift beschrieben sind, bildeten einen Teil des bezeichneten gemeinsamen Plans und der Verschwörung, und alle in den angefuhrten Anklagepunkten erhobenen Beschuldigungen werden zu einem Bestandteil dieses Anklagepunktes gemacht."

Ende des Zitats.

Der Verteidiger des Angeklagten Dr. Lammers, Dr. Alfred Seidl, hat daraufhin im Fall Nr. 11 eine Motion eingereicht mit dem Antrage, ich zitiere:

"Der Gerichtshof wolle auch im Fall Nr. 11 entscheiden, dass seine Zuständigkeit beschränkt ist auf einen gemeinsamen Plan, der auf die Vorbereitung und Föhrung eines Angriffskrieges gerichtet ist und sich nicht erstreckt auf die Begehung von Kriegsverbrechen und Verbrechen gegen die Menschlichkeit".

Ende des Zitats.

Das Tribunal Nr. IV hat daraufhin in der Sitzung vom 27. März 1948, Transcript page 4452, folgendes ruling erlassen, ich zitiere:

"Another motion was made by Dr. Seidl in behalf of Lammers, in which various defendants, however, are interested and by which they will be affected; that is a motion with respect to Count II on the charge of conspiracy. Without extending my remarks I wish to say that the Tribunal is there asked to limit its competency, as he puts it, to a common plan aiming at the preparation and conduct of aggressive war, and not to go into the commission of war crimes and crimes against humanity insofar as the conspiracy charge is concerned. The tribunal will grant the relief there asked for with respect to Count 2."

Ende des Zitats.

Damit ist eindeutig klargestellt, dass das Tribunal Nr. IV, ungeachtet der Tatsache, dass die Prosecution Kriegsverbrechen und Verbrechen gegen die Menschlichkeit als Teil der Verschwörung zur Begehung von Verbrechen gegen den Frieden unter Anklage gestellt hat -wie dies auch im vorliegenden Falle geschehen ist-, eine Entscheidung verkündet hat, die der bisherigen feststehenden Praxis der Nuernberger Tribunale entspricht.

Die Verteidigung begruesst es im uebrigen, dass die Prosecution trotz ihrer Ausfuehrungen auf Seite 1 und 2 ihrer Erwiderung im Endergebnis der gleichen Auffassung wie die Verteidigung zu sein scheint, wenn sie auf Seite 3 ihrer Antwort sagt, ich zitiere:

"The Prosecution in this case will join with the Defense in requesting a ruling substantially the same as that issued in Case No. 11." Ende des Zitats.

Die Verteidigung glaubt daher, auf weitere Ausfuehrungen zu diesem Thema verzichten zu koennen. sie bittet lediglich das Hohe Gericht, falls es gewillt sein sollte, den Antrag der Verteidigung zu entsprechen, das ruling so zu fassen, dass es sich auf die Verschwörung zur Begehung von Kriegsverbrechen und Verbrechen gegen die Menschlichkeit in der Formulierung des Anklagepunktes V bezieht.

T e i l II: Raub und Pluenderung in Oesterreich und im Sudetenland.

Auch zu diesem Punkt glaubt die Verteidigung angesichts ihrer bisherigen Ausfuehrungen sich verhaeltnismessig kurz fassen zu koennen.

Der unter Anklage gestellte Tatbestand des Raubes und der Pluenderung geht auf den 3. Abschnitt der Anlage zur Haager Landkriegsordnung vom 18. Oktober 1907, insbesondere auf die Artikel 46, 47 und 52, zurueck, der die Ueberschrift "Militaerische Gewalt auf besetztem feindlichen Gebiete" traegt. Artikel 42 der Anlage zur Haager Landkriegsordnung lautet in seinem 1. Absatz wie folgt, ich zitiere:

"Ein Gebiet gilt als besetzt, wenn es sich tatsaechlich in der Gewalt des feindlichen Heeres befindet."

Ende des Zitats.

Die Verteidigung ist daher der Auffassung, dass der Tatbestand des Raubes und der Pluenderung das Bestehen eines Kriegszustandes voraussetzt, und dass daher Kriegsverbrechen im Sinne des Artikels II, 1b, des Kontrollratsgesetzes Nr. 10 nur im Falle der Besetzung eines Landes durch ein feindliches Heer, d.h. im Kriegszustande, begangen werden koennen. Wenn das Kontrollratsgesetz Nr. 10 in Artikel II unter 1c "Verbrechen gegen die Menschlichkeit" den Tatbestand des Raubes und der Pluenderung nicht erwaehnt, so liegt nach Auffassung der Verteidigung ein solcher Tatbestand, wenn er nur unter dem Gesichtspunkt des Verbrechens gegen die Menschlichkeit beurteilt wird, ausserhalb der Zustaendigkeit des Gerichts.

Das DNT hat in seinem Urteil auf Seite 334 ausdruuecklich festgestellt, dass die Besetzung von Boehmen und Maehren als eine militaerische Okkupation anzusehen ist, die den Regeln der Kriegsfuehrung im Sinne der Haager Landkriegsordnung unterliegt. Damit ist zunaechst eindeutig festgestellt, dass die Besetzung des Sudetenlandes nicht eine derartige militaerische Okkupation darstellt, einfach aus dem Grunde, weil die Besetzung des Sudetenlandes auf Grund des Muenchener Abkommens, an dem von alliierter Seite die Staaten Frankreich und Grossbritannien beteiligt waren, erfolgt ist. Es kann daher nach Auffassung der Verteidigung nicht den geringsten Zweifel unterliegen, dass der Fall Aussig-Falkenau keinesfalls, selbst wenn die Behauptung der Prosecution in diesem Zusammenhange richtig waere, als ein Kriegsverbrechen abgeurteilt werden kann, da -wie wiederholt ausgefuehrt- Aussig-Falkenau

im Sudetenland gelogen ist. Da andererseits -wie bereits erwähnt- der Tatbestand des Raubes und der Plünderung im Kontrollratsgesetz Nr. 10, Artikel II, 10, nicht als Verbrechen gegen die Menschlichkeit unter Strafe gestellt ist, fehlt nach Auffassung der Verteidigung jede rechtliche Grundlage fuer eine Bestrafung der angeblichen Aktionen der Angeklagten bezueglich der Werke Aussig und Falkenau.

Das Gleiche muss aber nach Auffassung der Verteidigung auch fuer den Fall Skoda-Wetzlar gelten. Das IMT hat hinsichtlich Oesterreich keine Feststellung getroffen, dass die Besetzung Oesterreichs etwa wie die Besetzung Boehmens und Madares eine militaerische Okkupation war, auf die die Regeln der Kriegsfuehrung im Sinne der Haager Landkriegsordnung Anwendung finden. Im uebrigen kommt noch hinzu -und das gilt selbstverstaendlich auch fuer den Fall Sudetenland-, dass die Prosecution keinen Nachweis dafuer erbracht hat, dass die Angeklagten sich dessen bewusst waren, gegen Voelkerrechtseastze zu verstossen, selbst wenn man einmal unterstellt, dass die Behauptungen der Prosecution richtig sind, dass die Faelle Skoda-Wetzlar und Aussig-Falkenau Pluenderungsaefalle im voelkerrechtlichen Sinne darstellen. Zur Feststellung der Schuld der Angeklagten gehoert in diesem Falle nach Auffassung der Verteidigung der Nachweis, dass sie sich des Verstoesses ihrer Handlungsweise gegen das Voelkerrecht bewusst waren. Hierzu waere aber weiter erforderlich der Nachweis, dass die Angeklagten sich dessen bewusst waren, dass die Besetzung Oesterreichs und des Sudetenlandes eine Angriffshandlung war, auf die die Regeln ueber die Kriegsfuehrung Anwendung finden, wenn man einmal davon ausgeht, dass diese Regeln hier zur Anwendung gelangen. Die Verteidigung vertritt daher den Standpunkt, dass, selbst wenn man mit der Prosecution annehmen wollte, dass auf die Besetzung Oesterreichs und des Sudetenlandes die Regeln der Kriegsfuehrung und damit die Haager Landkriegsordnung Anwendung finden, es an dem Nachweis der Kenntnis der Angeklagten ueber die Anwendung solcher Regeln der Kriegsfuehrung fehlt. Die Anklage hat kein einziges Dokument darueber eingefuehrt, dass die Angeklagten davon unterrichtet waren, dass die Besetzung Oesterreichs und des Sudetenlandes -wie es das IMT-Urteil feststellt- eine planmassige Vorbereitung des Naziplans eines Angriffs auf andere Laender gewesen ist.

Im übrigen

Es kann nach Auffassung der Verteidigung keinen Zweifel unterliegen, dass die Prosecution im IMT-Prozess die Aktionen der Angeklagten in Oesterreich als Kriegsverbrechen bezeichnet hatte, wenn sie hierzu rechtlich in der Lage gewesen wäre. Insofern ist die Tatsache, dass diese Aktionen in Oesterreich nur als Verbrechen gegen die Menschlichkeit unter Anklage gestellt wurden, höchst bedeutsam.

Wenn auch die Besetzung Oesterreichs als eine Angriffshandlung im IMT-Urteil bezeichnet wird, so folgt daraus nach Auffassung der Verteidigung nicht, dass damit die Regeln der Haager Landkriegsordnung, d.h. die Regeln ueber die Kriegsfuehrung, wie im Falle Böhmen und Mähren Anwendung finden, denn zwischen beiden Faellen besteht der Unterschied, dass im Falle Oesterreich es sich um eine Einverleibung dieses Gebiets in das Hoheitsgebiet des Deutschen Reiches handelte, ohne dass dem ehemaligen oesterreichischen Staat eine wenn auch nur beschränkte Souveränität verblieb, waehrend im Falle Böhmen und Mähren diese Laender ihre eigene Souveränität beibehielten, die lediglich durch die Interessen Deutschlands, wie sie im Bestehen des Protektorats zum Ausdruck kamen, beschränkt wurde. Ein aufmerksames Studium der Urteilsgruende des IMT ergibt die Richtigkeit dieser Auffassung, denn das IMT-Urteil fuehrt auf Seite 334 zum Falle Böhmen und Mähren folgendes wortlich aus, ich zitiere:

"Hitlers Gesetz vom 16. Maers 1939, mit dem das Protektorat errichtet wurde, erklart, dass dieses neue Gebiet (TO 51, GB 8) 'in Zukunft zum Gebiet des Deutschen Reiches gehoert', woraus zu entnehmen war, dass die Tschechoslowakische Republik nicht mehr bestehe. Das Gesetz beruhte aber gleichzeitig auf der Annahme, dass Böhmen und Mähren ihre Souveränität beibehielten, vorbehaltlich nur der Interessen Deutschlands, wie sie im Bestehen des Protektorats zum Ausdruck kamen. Selbst wenn daher die Lehre von der Unterwerfung auf ein durch eine Angriffshandlung erobertes Gebiet als anwendbar angesehen wird, so glaubt doch der Gerichtshof nicht, dass diese Proklamation einer Einverleibung gleichkam, die hinreichen wuerde, um diese Lehre zur Anwendung zu bringen. Die Besetzung Böhmens und Mährens muss daher als eine militaerische Besetzung angesehen werden, die den Regeln der Kriegsfuehrung unterliegt."

Ende des Zitats.

Diese Ausfuehrungen des IMT-Urteils passen ganz offensichtlich nicht auf den Fall Oesterreich, da dieses Land -wie bereits gesagt- seine fruhere Souveränität vollständig einbuessete und nicht in ein Protektoratsverhaeltnis zum Deutschen Reich geriet.

Die Verteidigung haelt daher ihren bisher vertretenen
Rechtsstandpunkt in dem von der Anklage behaupteten
Pluenderungsfaellen voll aufrecht und bittet um eine
Entscheidung ueber ihre Antraege auf Freispruch.

Dr. Rudolf Dix

(Dr. Rudolf Dix)

Dr. Wolfram v. Metzler

(Dr. Wolfram v. Metzler)

411
⑪

1230

FILED 17 April 1948
SECRETARY GENERAL
for the Military Tribunals
Director

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

KRAUCH and Others (Case VI)

ANSWER TO MOTION OF DEFENSE RELATING TO CHARGES OF
CONSPIRACY IN COUNT V AND CHARGES OF SPOILIATION IN
AUSTRIA AND THE SUDETENLAND

TO: The Secretary General, Military Tribunals (Room 281)

1. The following answer is made to the motion of the defense requesting that Count V of the indictment be dismissed insofar as it charges a conspiracy to commit War Crimes and Crimes against Humanity; and that Count II be dismissed insofar as it relates to alleged acts of plunder and spoliation in Austria and the Sudetenland. The motion was filed 15 April 1948.

Part I - Conspiracy

2. Count V of the indictment charges that the defendants participated as leaders, organizers, instigators, and accomplices in the formulation and execution of a common plan and conspiracy to commit, and which involved the commission of, Crimes against Peace (including the acts constituting War Crimes and Crimes against Humanity, which were committed as an integral part of such Crimes against Peace) as defined by Control Council Law No. 10, and are individually responsible for their own acts and for all acts, committed by any persons in the execution of such common plan and conspiracy. The Prosecution further charges that the acts and conduct of the defendants set forth in Counts II and III of the indictment form a part of Crimes against Peace and of said common plan and conspiracy and all the allegations made in said counts are incorporated in both Counts I and V.

3. It is imperative to state at the outset that the Prosecution is charging only a conspiracy to commit Crimes against Peace. We have, during the course of the trial, indicated that the definition of Crimes against

Peace is not limited to planning, preparation or initiation of wars of aggression and invasion of other countries, but includes also waging a war of aggression and invasion. Although the matters charged in Counts II and III of the indictment, relating to War Crimes and Crimes against Humanity, are recognized in Article II in Control Council Law #10 as being distinct crimes, they also constitute Crimes against Peace to the extent that these War Crimes and Crimes against Humanity are part of the preparation and waging of war. Consequently, any acts charged in Counts II and III which are an integral part of the preparation for or waging of aggression and invasion of other countries, are also Crimes against Peace independent of the fact that they are also War Crimes and Crimes against Humanity. This is set forth in Count I of the indictment, where at paragraph 84, the allegations made in Counts II and III are incorporated in Count I of the indictment, thus bringing them within the charges dealing with the commission of Crimes against Peace. Control Council Law #10 and Ordinance #7 make conspiracy to commit Crimes against Peace a substantive crime which is separate and distinct from the offenses described in Count I. It is for that reason that we have charged in Count V, as a separate criminal offense, a conspiracy to commit Crimes against Peace, which is separate and distinct from crimes set forth in Count I relating to the commission of Crimes against Peace itself. Accordingly, if the proof establishes participation by the defendants in a conspiracy to commit Crimes against Peace, which would make them individually responsible for their own acts and for all acts committed by any persons in the execution of such conspiracy, such conspiracy would comprehend the acts charged in Counts II and III of the indictment.

4. Therefore, it is submitted that on the theory of the conspiracy charge, which is plainly set forth in the indictment, there is no charge of conspiracy concerning War Crimes and Crimes against Humanity, as such, but the conspiracy charge does include the acts which constitute War Crimes and Crimes against Humanity committed as an integral part of Crimes against Peace. Hence, the ruling handed down in the Joint Session of Military Tribunals relative to a separate charge of conspiracy to commit War Crimes or Crimes

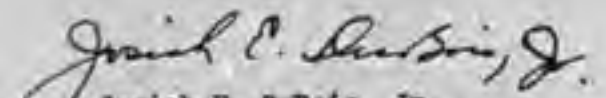
against Humanity in Cases 1, 3 and 4 is not at issue here. Furthermore, the ruling of the Tribunal in Case No. 11 (a copy of which is attached), which is cited by Dr. Dix is not at variance with the position of the Prosecution in Case No. 6. The Prosecution in this case will join with the Defense in requesting a ruling substantially the same as that issued in Case No. 11.

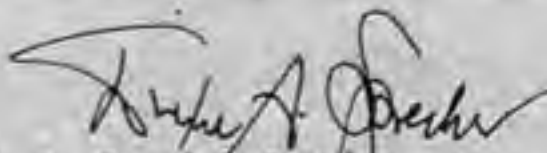
PART II - Spoliation in Austria and the Sudetenland

5. The motion to dismiss the charges in Count II relating to Austria and the Sudetenland was dealt with at some length in the Prosecution's Answer of 5 January 1948 to the motion of the Defense of 17 December 1947. (See particularly pp. 45 - 50 inclusive of the Answer). The prosecution would merely like to stress here that the whole notion that it is no crime to plunder a country and rob its people so long as such country has succumbed to the overwhelming military power of a stronger country without a shot being fired, is not only contrary to the I.M.T. Judgment, but is contrary to all principles of a civilized international community. The fact that the invasion of Austria and Czechoslovakia, including the Sudetenland, Bohemia and Moravia, were not charged as aggressive wars in the I.M.T. Indictment is perhaps part of the reason for some confusion on this subject. But any such confusion is cleared up by a careful reading of the I.M.T. Judgment. Although Austria was not charged in the I.M.T. Indictment as an aggressive war, it is clear that the Tribunal regarded the invasion and occupation of Austria as a Crime against Peace. Thus, the I.M.T. stated (pp. 318, 319): "It's occupation is, therefore, a 'crime within the jurisdiction of the Tribunal' as that term is used in Article 6 (c) of the Charter." Concerning the fact that Austria succumbed without a shot being fired, the I.M.T. said (p. 194): "The ultimate factor was the armed might of Germany ready to be used if any resistance was encountered". The I.M.T. found that inhumane acts and persecutions committed in connection with the occupation of Austria constituted Crimes against Humanity within the jurisdiction of the Tribunal. It is true that, as Dr. Dix states, the I.M.T. did not find that

Von Schirach was guilty of War Crimes, but here again this was because of the Indictment, not on the basis of any view on the part of the Tribunal that War Crimes could not be committed in Austria. As the I.M.T. stated (p. 318): "Von Schirach is not charged with the commission of War Crimes in Vienna, only with the commission of Crimes against Humanity." And the idea advanced in the original motion of the Defense, and supported by the motion of Dr. Dix, that War Crimes in a country can be charged "only if this country was engaged in open warfare with Germany" is again completely contrary to the decision of the I.M.T. For the I.M.T. specifically held (p. 334): "the occupation of Bohemia and Moravia must therefore be considered a military occupation covered by the rules of warfare."

6. The Prosecution reiterates what it said in its answer of 5 January 1948. There is no reason either because of the wording of Control Council Law #10, or because of the purpose of that law for treating plunder in Austria and plunder in Czechoslovakia any differently than plunder in Poland and plunder in France; and it would be a mockery if the protection of international law, with respect to acts involving property, extended only to those nations who were strong enough to resist aggression, and if no punitive measures could be expected if the aggressor conquered without visible resistance.


Josiah E. DuBois, Jr.
Deputy Chief of Counsel, Farben


Draxel A. Sprecher
Chief, Farben Trial Team

Munich, 16 April 1948.

MILITARY TRIBUNALS
TRIBUNAL IV, CASE II

UNITED STATES OF AMERICA

against

ERNST VON WEIZSACKER, et al.

O R D E R

Dr. Seidl, in behalf of Defendant Hans Heinrich Lammers, on 22 March 1948 filed a motion requesting that the Tribunal limit its consideration of Count II of the indictment to plans and conspiracy relating to a common plan aiming at the preparation and conduct of aggressive war. In opposition to such motion, the prosecution filed an answer.

The Tribunal having considered the arguments in support of and in opposition to said motion, and it appearing therefrom that the charges of common plan and conspiracy, as contained in Count II, must properly be confined to the planning and preparation of crimes against peace, said motion praying that this Tribunal confine its consideration in Count II to the plan and conspiracy to commit crimes against peace, is granted.

Memorandum hereto attached is made a part of this order.

Nurnberg, Germany
29 March 1948

WILLIAM C. CHRISTIANSON
Presiding Judge
Tribunal IV

MEMORANDUM

Of interest in connection with this motion, and of persuasive application therein, reference is made to the following from the judgment of Military Tribunal II in Case No. 4, where the question involved in this motion was there passed upon. In its judgment, Tribunal II, in disposing of the question, referred to its disposition of a motion made in connection with the matter during the trial. It stated,

"In order that this judgment may be complete, the ruling of the Tribunal is incorporated in this judgment: 'It is the ruling of this Tribunal that neither the Charter of the International Military Tribunal nor Control Council Law #10 has defined conspiracy to commit a war crime or a crime against humanity as a separate substantive crime...'"

S.C.C.

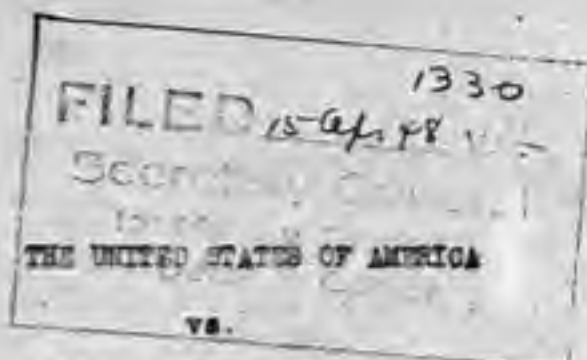
Justizrat Dr. Rudolf Bix

Nurnberg 14 April 1948

Military Tribunal No. VI

- Case 6 -

RECEIVED



CARL KRAUCH et al.

I take the liberty of re-opening the legal question which has already been broached by both the Prosecution and the Defense in the latter half of October and upon which the Tribunal has not ruled yet.

It is the fundamental legal question whether the conspiracy charged under count V of the indictment can legally be applied to the commission of war crimes and crimes against humanity (count II and III of the indictment).

The Prosecution has set forth its view on this legal question in the morning session of 28 October 1947 (pages 2394, 2395 and 2396 of the English transcript, pages 2914, 2915, and 2916 of the German transcript). The Defense thereupon replied in the morning session of 29 October 1947 (pages 2963, 2964 and 2965 of the English and pages 2962, 2963 and 2964 of the German transcript) and stated that the Prosecution's view, according to which conspiracy also includes counts II and III as a component part of count I, is not only at variance with the already frequently quoted ruling of the Joint Military Tribunals in Nurnberg which, on legal grounds, negatives the conspiracy to commit war crimes and crimes against humanity, but is also in contradiction with Control Council Law No. 10, the IMT Charter as well as with the IMT-Verdict. Following the statement by the Defense, the Tribunal stated (page 2966, English transcript, page 2965, German transcript)-that it would thoroughly study this

legal question and announce its ruling in this respect without too much delay. In the morning session of 12 January 1948 (page 5032 of English, page 5053 of German transcript) attorney Dr. v. Metzler again tackled the question and inquired when the Tribunal's ruling on this legal question might be expected. The Tribunal replied in the afternoon session of 12 January 1948 (page 5065 of English, page 5086 of German transcript) that, in view of the fundamental motion of the Defense, dated 17 December 1947, which likewise concerns count V of the indictment, a special ruling upon this legal question might prove to be superfluous. The defense motion of 17 December 1947 having not been decided upon yet, the Defense herewith respectfully requests the Tribunal to rule upon this legal point in dispute since this is of considerable importance for the further preparation of the defense, in particular for the preparation of the Closing Brief. This concerns - as stated - a purely legal question, which does not necessitate a study of the evidence offered by the Prosecution and the Defense.

I herewith respectfully point out the following additional facts to supplement the statements made by the Defense in the morning session of 29 October 1947 and which I have already mentioned:

In Case No. 11 "United States of America vs. Ernst von Weizsäcker et al.", the indictment, as far as conspiracy is concerned, is formulated in exactly the same way as the present one, i.e. war crimes and crimes against humanity are also charged as a component part of crimes against peace and therewith as part of the conspiracy to commit crimes against peace.

Replying to a similar objection of the Defense as in the case under consideration, Military Tribunal No. IV, Case No. 11, ruled in the afternoon session of 27 March 1948 (page 4452 of the English, page 4577 of the German transcript) that the conspiracy count, irrespective of its formulation, cannot bear upon the commission of war crimes and crimes against humanity and that therefore conspiracy as a count of the indictment ceases to exist as far as this is concerned. By doing so, a ruling

has been made which fully takes into account the view taken by the Defense in this case.

I respectfully request the Tribunal take notice of this decision and consider it when making its own ruling.

I should further like to broach a problem which has already been dealt with in a motion of 17 December¹⁹⁴⁷ and which was set forth by the Defense in the morning session of 17 December 1947 (pages 4677-4682 of the English, pages 4693-4698 of the German transcript). The question is whether the alleged cases of spoliation in Austria and in the Sudetenland which are charged, are relevant. I respectfully refer to pages 21, 22 and 23 of the English translation of the Defense motion as well as to pages 13, 14 and 15 of the Defense's reply, dated 9 January 1948, to the Prosecution's comments of 5 January 1948. In this part of the motion the Defense has set forth that, according to Art II, 1c of Control Council Law No. 10, the transactions in question here (Skoda-Wetzlar and Aussig-Falkenau) cannot be charged as crimes against humanity since in the above provision, which deals with the commission of crimes against humanity, the case of spoliation is not contained. On page 14 of its above-mentioned reply, dated 9 January 1948, the Defense quoted two passages from the verdict of Case V against Flick which underlines convincingly the correctness of the Defense's view.

The Defense further stated that, therefore, these cases of spoliation alleged by the Prosecution could be charged only if they were war crimes. It furthermore called attention to the fact that crimes committed in Austria are not war crimes. The Defense took the view that the prerequisite for the commission of war crimes is the presence of an enemy population, a prerequisite which does not exist in the case of Austria. In this connection the Defense pointed out the reasons of the IMT verdict with respect to the defendant von Schirach (page 318) who was indicted and convicted for his acts in Austria prior to 1 September 1939 only from the angle of the commission of crimes against humanity and not from the

angle of the commission of war crimes.

As far as the case of the Sudetenland is concerned, the Defense pointed out that according to the substantiation of the IMT-verdict, page 334, only the occupation of Bohemia and Moravia constituted a military occupation covered by the rules of warfare, that accordingly the occupation of the Sudetenland which followed as a result of the Munich Agreement does not constitute such a military occupation so that, therefore, the rules and laws of warfare cannot be applied in the Sudetenland and, accordingly, the commission of war crimes is insofar legally impossible. As, however, on the other hand, the alleged spoliation charged with respect to the Aussig and Falkensau Werke exclusively refers to the Sudetenland, this case can therefore not be charged as war crimes. It is shown that, on purely legal grounds, neither the Skoda-Wetzlar case nor the Aussig-Falkensau case can be charged as crimes against humanity or war crimes, so that - as far as this is concerned - the Defense holds there should be an acquittal on legal grounds. The Defense therefore requests the Tribunal now to rule upon this portion of the problem of its motion, dated 17 December 1947, since - as stated above - in the opinion of the Defense this ruling does not require an examination of the evidence offered by the Prosecution and the Defense, but constitutes a purely legal question. The Defense is interested in a prompt ruling on this portion of the problem of its motion, dated 17 December 1947, since its further preparation, in particular the writing of the Closing Briefs could thereby be considerably influenced. For the Prosecution and the Defense have offered quite an amount of evidence pertaining to the cases of Skoda-Wetzlar and Aussig-Falkensau, the handling of which would then become superfluous provided the Tribunal should, on legal grounds, grant the Defense's motion for acquittal.

Summarizing I, once again, on behalf of the whole Defense, respectfully request the Tribunal

now to make a ruling on the question of applicability of count V to counts II and III, as well as on the justification of count II in the cases of Austria and the Sudetenland.

/s./ R. Dix

Militär-Tribunal Nr. VI
für Fall Nr. 8,

Euerberg.

Die VEREINIGTEN STAATEN VON AMERIKA

gegen

CARL KRAUCH et al.

1930
FIL 15 April 1948

Ich darf ein bereits Ende Oktober 1947 von der Anklagebehörde und der Verteidigung aufgeworfenes Rechtsproblem nochmals ansprechen, ueber das bisher eine Entscheidung des Hohen Gerichts noch nicht ergangen ist.

Es handelt sich um die grundsätzliche Rechtsfrage, ob die unter Punkt V des Indictment unter Anklage gestellte V e r s c h w o e r u n g rechtlich auf die Begehung von Kriegsverbrechen und Verbrechen gegen die Menschlichkeit (Punkte II und III des Indictment) Anwendung finden kann.

Die Anklagebehörde hat ihren Standpunkt zu dieser Rechtsfrage in der Vermittungssitzung vom 28. Oktober 1947, englische Protokollseiten 2894, 2895 und 2896, deutsche Seiten 2914, 2915 und 2916, vorgetragen. Die Verteidigung hat hierauf in der Vermittungssitzung vom 29. Oktober 1947, englische Protokollseiten 2963, 2964 und 2965, deutsche Seiten 2982, 2983 und 2984, erwidert und dargelegt, dass der Standpunkt der Anklage, dass die Verschwörung auch die Anklagepunkte II und III als Bestandteil des Anklagepunktes I mitumfasst, nicht nur dem bereits wiederholt zitierten Beschluss der Vereinigten Militär-Tribunale in Euerberg widerspricht, in dem aus Rechtsgründen die Verschwörung zur Begehung von Kriegsverbrechen und Verbrechen gegen die Menschlichkeit verneint wird, sondern auch im Widerspruch steht zum Kontrollratsgesetz Nr. 10 und dem Statut des DMT sowie zum Urteil des DMT. Das Hohe Gericht hat in Anschluss an die Erklärung der Verteidigung, englische Protokollseite 2966, deutsche Seite 2986, erklärt, es werde diese Rechtsfrage einer gründlichen Ueberprüfung unterziehen und seine Entscheidung in dieser Hinsicht ohne eine zu grosse Verzögerung bekanntgeben. In der Vermittungssitzung vom 12. Januar 1948, englische Protokollseite 5052, deutsche Seite 5053, hat Herr Rechtsanwalt Dr. v. Metzler nochmals das Problem angeschnitten und angefragt, wann mit einer Entscheidung des Hohen Gerichts zu dieser

Rechtsfrage zu rechnen sei. Das Hohe Gericht hat in der Nachmittagsitzung vom 12. Januar 1948, englische Protokollseite 5065, deutsche Seite 5086, hierauf erklärt, dass angesichts der grundsätzlichen Motion der Verteidigung vom 17. Dezember 1947, die ebenfalls den Anklagepunkt V betrifft, eine besondere Entscheidung ueber diese Rechtsfrage sich vielleicht eruebrigen wurde. Da bisher eine Entscheidung ueber die Motion der Verteidigung vom 17. Dezember 1947 nicht ergangen ist, moechte die Verteidigung hiermit nunmehr um eine Entscheidung des Hohen Gerichts ueber die hier zur Debatte stehende Rechtsfrage bitten, da dies fuer die weitere Vorbereitung der Verteidigung, insbesondere fuer die Abfassung der Closing Briefs, von erheblicher Bedeutung ist. Es handelt sich hier -wie gesagt- um eine reine Rechtsfrage, die ein Studium des von der Anklagebehörde und der Verteidigung eingereichten Beweismaterials nicht erfordert.

In Ergaenzung der bereits erwahnten Ausfuehrungen der Verteidigung in der Vormittagsitzung vom 29. Oktober 1947 darf ich mir erlauben, noch auf folgendes hinzuweisen:

In Falle Nr. 11 "Vereinigte Staaten von Amerika gegen Ernst von Weissacker et al." ist die Anklageschrift hinsichtlich der Verschwörung genau so formuliert wie die hier vorliegende, d.h. auch hier werden Kriegsverbrechen und Verbrechen gegen die Menschlichkeit als Bestandteil der Verbrechen gegen den Frieden und damit der Verschwörung zur Begehung von Verbrechen gegen den Frieden unter Anklage gestellt.

Auf einen aehnlichen Einwand der Verteidigung wie in dem hier vorliegenden Fall hat das Militar-Tribunal Nr. IV in Falle Nr. 11 in der Nachmittagsitzung vom 27. Maerz 1948, englische Protokollseite 4452, deutsche Seite 4577, entschieden, dass der Anklagepunkt der Verschwörung sich ungeachtet seiner Formulierung nicht auf die Begehung von Kriegsverbrechen und Verbrechen gegen die Menschlichkeit beziehen kann, also insoweit die Verschwörung als Anklagepunkt ausscheidet. Damit ist eine Entscheidung ergangen, die dem in diesem Prozess vertretenen Standpunkt der Verteidigung voll Rechnung traegt. Ich moechte das Hohe Gericht bitten, von dieser Entscheidung Kenntnis zu nehmen und sie bei der eigenen Entscheidung zu beruecksichtigen.

Ich moechte mir ferner erlauben, nochmals ein Problem anzusprechen, das in der Motion der Verteidigung vom 17. Dezember 1947, die in der Vormittagsitzung vom 17. Dezember 1947, englische Protokollseiten 4677 bis 4682, deutsche Seiten 4693 bis 4698, vorgetragen wurde, behandelt wird, und zwar handelt es sich um die Frage, ob die unter Anklage gestellten angeblichen Pluenderungsfaelle in Oesterreich und im Sudetenland relevant sind. Ich darf auf die englischen Seiten 21, 22 und 23 der Motion der Verteidigung sowie auf die Seiten 13, 14 und 15 der Erwiderung der Verteidigung vom 9. Januar 1948 auf die Stellungnahme der Anklagebehoerde vom 5. Januar 1948 hinweisen. In diesem Teil der Motion hat die Verteidigung ausgefuehrt, dass gemass Artikel II, 1c, des Kontrollratsgesetzes Nr. 10 die hier in Frage stehenden Transaktionen (Ghoda-Wetzlar und Aussig-Falkenau) nicht als Verbrechen gegen die Menschlichkeit unter Anklage gestellt werden koennen, da in dieser Vorschrift, die sich mit der Begehung von Verbrechen gegen die Menschlichkeit befasst, der Fall der Pluenderung nicht aufgesaeht ist. Auf Seite 14 ihrer vorerwaehten Erwiderung vom 9. Januar 1948 hat die Verteidigung zwei Stellen aus dem Urteil des Falles 5 gegen Flick zitiert, die in ueberzeugender Weise die Richtigkeit des Standpunkts der Verteidigung unterstreichen.

Die Verteidigung hat weiter dargelegt, dass also diese von der Prosecution behaupteten Faelle von Pluenderung nur dann unter Anklage gestellt werden koennen, wenn sie Kriegsverbrechen waeren. Sie hat weiter darauf hingewiesen, dass in Oesterreich begangene Verbrechen keine Kriegsverbrechen sind. Die Verteidigung hat den Standpunkt vertreten, dass Voraussetzung fuer die Begehung von Kriegsverbrechen das Vorhandensein einer feindlichen Bevoelkerung ist, eine Voraussetzung, die im Falle Oesterreich nicht erfuellt ist. Die Verteidigung hat in diesem Zusammenhang auf die Gruende des IMT-Urteils betreffend den Angeklagten von Sokirach (Seite 318) hingewiesen, der fuer seine Handlungen in Oesterreich vor dem 1. September 1939 nur aus dem Gesichtspunkt der Begehung von Verbrechen gegen die Menschlichkeit und nicht aus dem Gesichtspunkt der Begehung von Kriegsverbrechen angeklagt und abgeurteilt worden ist.

Hinsichtlich des Falles Sudetenland hat die Verteidigung darauf hingewiesen, dass nach dem Gruenden des IMT-Urteils, Seite 334, nur die Be-

setzung von Böhmen und Mähren eine durch die Kriegsregeln gedeckte militärische Okkupation sei, dass also demgemäss die auf Grund des Münchener Abkommens erfolgte Besetzung des Sudetenlandes nicht eine derartige militärische Okkupation darstellt, sodass also die Kriegsregeln und -gesetze im Sudetenland keine Anwendung finden können, somit insoweit auch nicht die Begehung von Kriegsverbrechen rechtlich möglich ist. Da aber andererseits die unter Anklage gestellte angebliche Plünderung bezüglich der Werke Aussig und Falkenau sich ausschliesslich auf das Sudetenland bezieht, kann also dieser Fall nicht als Kriegsverbrechen unter Anklage gestellt werden. Es ergibt sich hieraus, dass aus reinen Rechtsgründen weder der Fall Skoda-Wetzlar noch der Fall Aussig-Falkenau als Verbrechen gegen die Menschlichkeit oder als Kriegsverbrechen unter Anklage gestellt werden können, sodass aus Rechtsgründen insoweit nach Auffassung der Verteidigung ein Freispruch erfolgen müsste. Die Verteidigung bittet daher das Hohe Gericht, ueber dieses Teilproblem ihrer Motion vom 17. Dezember 1947 eine Entscheidung schon jetzt zu verkünden, da -wie gesagt- nach Auffassung der Verteidigung diese Entscheidung nicht ein Studium der von der Anklagebehörde und der Verteidigung eingereichten Beweisstücke erfordert, sondern eine reine Rechtsfrage darstellt. Die Verteidigung ist an einer baldigen Entscheidung ueber dieses Teilproblem ihrer Motion vom 17. Dezember 1947 deshalb interessiert, weil dadurch ihre weitere Vorbereitung, insbesondere die Abfassung der Closing Briefs, erheblich beeinflusst werden könnte, denn zu den Fällen Skoda-Wetzlar und Aussig-Falkenau ist von der Prosecution und von der Verteidigung ein beträchtliches Beweismaterial ueberreicht worden, dessen Behandlung dann ueberflüssig werden würde, wenn das Hohe Gericht aus Rechtsgründen dem Antrag der Verteidigung auf Freispruch stattgeben würde.

Zusammenfassend darf ich daher namens der Gesamtverteidigung das Hohe Gericht nochmals bitten, wenigstens

ueber die Frage der Anwendbarkeit des Anklagepunktes V auf die Anklagepunkte II und III sowie ueber die Berechtigung des Anklagepunktes II in dem Faelle Oesterreich und Sudetenland vorabentscheiden.

Dr. jur. R.W. Müller
Administrative Assistant
in Case VI

Nürnberg 28 April 1948

412
①

FILED 28 Apr 48
F. I.
Secretary General
of Military Tribunal
Nürnberg, Germany

To
Major Schaefer

Palace of Justice
Room 548

Dear Major,

On behalf and by order of the Defense in Case 6 I herewith inform you that the task of Herr Joseph Niemann who was assigned to the Special Staff of the Defense in the IG-trial has been completed. I therefore request you to strike him off the list of Defense Counsel in the IG-trial effective 24 April 1948.

Owing to Herr Niemann's absence I have requested him in a registered letter to return his passes, which will be forwarded to you as soon as I have received them.

Respectfully,

(s.) Müller

2
: 920
UT: 945 19.4.
for the Secretary General
r: Wi

Dr. jur. R. W. Möller
Administrative
Assistant in case VI

Würnberg, den 28.4.1948
Hörmannsgässchen 16 ✓

412

②

Herrn
Major S c h ä f f e r

Gerichtsgebäude
Zimmer 548

Sehr geehrter Herr Major!

Namens und im Auftrag der Verteidigung im Fall 6
teile ich Ihnen mit, dass die für den dem Sonderstab der
I.G.-Verteidigung zugeteilten Herrn Joseph Niemann aufge-
tragene Arbeit sich erledigt hat. Ich bitte ihn infolge-
dessen aus der Liste der I.G.-Verteidigung zu streichen
mit Wirkung vom 24.4.48.

Da Herr Niemann abwesend ist, habe ich per Einschreiben um
Rückgabe der Ausweise ersucht, die ich Ihnen sofort nach
Eintreffen nachreichen werde.

Mit vorzüglicher Hochachtung

Müller

413
0

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, WASHINGTON, DISTRICT
27 APRIL 1945

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUTH, et al.,

Defendants.

FILED *28 April 1945*
Case No. 8
Secretary General
for Military Tribunals
Defense Center

ORDER

On consideration of the petition of Dr. Otto Helte, Counsel for the Defendant Heinrich Hoerlein, dated 18 April 1945, requesting that said defendant be excused from attendance at the sessions of the Tribunal for the purpose of going to the hospital for a surgical operation

IT IS ORDERED that said defendant is excused for such period as may be necessary on account of his physical disability.

Curtis C. Shaker
CURTIS C. SHAKER
Presiding

Dated this 27th day of April 1945

PROSECUTION NOTIFIED

28 April 1945 GOR

DEFENSE NOTIFIED

413
②
MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

KRAUCH and Others (Case VI)

FILED 28 April 1948
Secretary General
for Military Tribunals
Defense Counsel

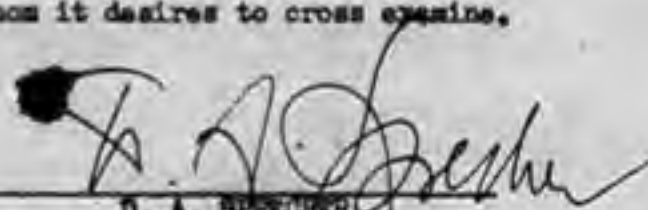
ANSWER TO A MOTION FOR A LEAVE OF ABSENCE FOR THE DEFENDANT
HOERLEIN.

TO: The Secretary General, Military Tribunals (Room 281).

1. Answer is made to the motion of Dr. Nelte, counsel for the defendant HOERLEIN, dated 27 April 1948, that the defendant HOERLEIN be given leave of absence "until he will have regained his fitness to stand trial".

2. The prosecution has no objection to a "leave of absence" for the defendant HOERLEIN, but sees no relation of this leave to his "fitness to stand trial" on the status of the record. As stated in open court, copies of the rebuttal documents involving medical experiments have been made available to the defendant and his counsel and the prosecution has informed Dr. Nelte of the affiants of the defendant HOERLEIN whom it desires to cross examine.

By:


D. A. SPEECHER
Chief, WARREN TRIAL TEAM

For:

TRIFORD TAYLOR
Brig. Gen. USA
Chief of Counsel

Nurnberg 27 April 1948
(Date)

Dr. Dr. Otto Nelte
Nurnberg
Maximilianstr. 27/III.

413
1100
FILED 24 April 1948 with
Secretary General
Nurnberg 24 April 1948
Dele. for Center

To
Military Tribunal VI
Nurnberg

Subject: Case No. 6, Proceedings against
Krauch et al.
Defense for the defendant
Prof. Dr. Heinrich Hoerlein

I herewith request the High Tribunal rule that:

"The defendant Prof. Hoerlein be given leave of absence so that he can undergo an urgent operation and that he be exempted from attending the sessions until he will have regained his fitness to stand trial".

SUBSTANTIATION

The reason for and necessity of this operation are known to the Tribunal. As far as the case of Hoerlein is concerned the proceedings have been concluded.

Without trying to anticipate the decision I may state that according to the preliminary and unprejudiced impression gained from the result of the production of evidence the necessary prerequisite for a detention, according to German law, namely the imperative reason of suspicion of perpetration or participation does in no case exist.

However, I do not request discharge from imprisonment since I am aware of the practical objections you have to take into consideration for such a decision.

In view of the situation in the Hoerlein Case, it should be possible to grant the request to free Professor Hoerlein from a steady supervision by the police during the time of his operation and recovery until he will have regained his fitness to stand trial.

Professor Hoerlein will pledge himself not to leave the area of the Nurnberg Municipal Hospital.

(s) Dr. Otto Nelte.

Dr. Dr. Otto N e i t e

N u e r n b e r g

Maximilianstr. 27/III

413
1186
FILED 24 April 1948
Secretary General

Nuernberg, den 24. April 1948

An

Militärgerichtshof Nr. VI

N u e r n b e r g

Betr.: Fall Nr. 6, Verfahren gegen Krauch und Andere
Verteidigung des Angeklagten Prof. Dr. Heinrich Hoerlein

Ich bitte das Hohe Gericht zu entscheiden :

" der Angeklagte Professor Hoerlein wird zum Zweck der Durchfuehrung einer dringend erforderlichen Operation und bis zur Wiederherstellung seiner Verhandlungsfahigkeit beurlaubt und von der Teilnahme an den Sitzungen befreit. "

Begrue ndung

und

Der Grund/die Notwendigkeit der Operation sind dem Hohen Gericht bekannt.
Prozessual ist das Verfahren im Falle Hoerlein abgeschlossen.

Ohne der Entscheidung vorgreifen zu wollen, darf ich feststellen, dass nach dem vorlaeufigen und nicht praefudiziellen Eindruck des Ergebnisses der Beweisaufnahme keinesfalls die nach deutschem Recht erforderliche Voraussetzung einer Inhaftierung gegeben ist, naemlich der dringende Verdachtsgrund einer Täterschaft oder Teilnahme.

Ich stelle jedoch nicht den Antrag auf Haftentlassung, weil ich die praktischen Bedenken wuerdige, die Sie bei einer solchen Entscheidung zu beruecksichtigen gezwungen sind.

Die Lage im Falle Hoerlein duerfte aber gestatten, dem Antrag zu entsprechen, Professor Hoerlein waehrend der Zeit seiner Operation und der notwendigen Wiederherstellung bis zur Verhandlungsfahigkeit von der staendigen polizeilichen Ueberwachung freizustellen.

Professor Hoerlein wird sich verpflichten, den Rayon des Allgemeinen Krankenhauses der Stadt Muenberg nicht zu verlassen.



(Dr. Otto Helke)

Dr. Dr. Otto Helte
N u r n b e r g
Palace of Justice

Nurnberg 15 April 1948

413
⑥

To
Military Tribunal No. VI
N u r n b e r g

FILED ^{18/5} ~~15/4~~ with
Secretary General
for Military Tribunals
Defense Center

Subject: Case No. 6, Trial against Krauch et al.
Defense of defendant Prof. Dr. Heinrich Hoerlein.

The defendant Hoerlein has to be operated upon as soon as possible according to the medical certificate- enclosed certificate dated 14 April 1948.

According to my personal conference with Herr Dr. Steichele the operation should be carried out not later than within 2 weeks.

Professor Hoerlein has asked me to submit the request to you and to the Prosecution that his case be concluded before his operation.

Herr Dr. Steichele stated that, in case of an operation without complications, the patient will have to stay in hospital for at least 3 weeks.

I may assume that it is known to the Tribunal that the mental condition of the patient is of very great importance for the course of a serious operation and for the healing. I request the Prosecution to inform me:

- a) whether it intends to call affiants for cross-examination in the Case Hoerlein (considering the affidavits contained in the Book VI Hoerlein),
- b) whether it intends to offer the affidavit Dr. Mortens NI-14046, so that I know, after the Tribunal has made its ruling, whether I have to summon this affiant for a cross-examination;
- c) whether it is intended to present rebuttal documents and to hear rebuttal witnesses,
- d) whether it is prepared to hear the case of Hoerlein after the conclusion of the case of defendant Duerrfeld.

(s) Dr. Otto Helte

1 Enclosure

1844

27.4.
General

The Vorstand
of the Surgical Clinic
of the General Hospital
Nurnberg

On 14 April 1948

Flurstrasse 17/Telephone 24954-56

Today I examined Professor Hoerlein. He was operated upon by me for a tumor on the left chest 6 months ago. Today he is suffering from the same ailment on the right side.

A surgical intervention to remove the tumor has to be made as soon as possible.

(s) Dr. H. Steichele

Municipal Medical Director

Dr. Dr. Otto H e i t e

N u e r n b e r g

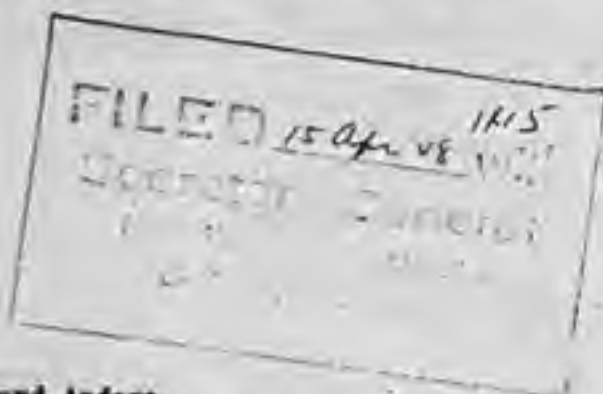
Justizpalast

Nuernberg, den 15. April 1948

An

Militaergerichtshof Nr. VI

N u e r n b e r g



Betr.: Fall Nr. 6, Verfahren gegen Krauch und Andere
Verteidigung des Angeklagten Prof. Dr. Heinrich Hoerlein

Der Angeklagte Professor Hoerlein muss auf Grund des aerztlichen Befundes
- beiliegendes Attest vom 14.4.48 - baldmoeglichst operiert werden.

Nach meiner persoenlichen Ruecksprache mit Herrn Dr. Steichele sollte die
Operation spaetestens in 14 Tagen erfolgen.

Professor Hoerlein hat mich gebeten, Ihnen und der Anklagebehoerde die
Bitte zu unterbreiten, seinen Fall prozessual vor seiner Operation abzuschliessen.

Die Mindest-Dauer des Aufenthaltes im Krankenhaus - bei einem Operations-
verlauf ohne Komplikationen - wird von Herrn Dr. Steichele auf 3 Wochen angegeben.

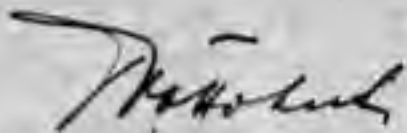
Ich darf als gerichtsbekannt annehmen, dass fuer den Verlauf einer ernst-
haften Operation und fuer die Heilung die psychische Verfassung des Patienten von
erheblicher Bedeutung ist.

Ich bitte um Mitteilung der Anklagebehoerde :

- a) ob sie beabsichtigt, im Falle Hoerlein Affianten zum Kreuzverhoer
zu fordern (unter Beruecksichtigung der im Buch VI ^{Hoerlein} enthaltenen
Affidavits);
- b) ob sie beabsichtigt, das Affidavit Dr. Mertens NI-14046 vorzulegen,
damit ich nach Entscheidung des Hohen Gerichts weiss, ob ich ge-
zwungen bin, diesen Affianten zum Kreuzverhoer zu fordern;
- c) ob beabsichtigt ist, Rebuttal-Dokumente vorzulegen und Rebuttal-
Zeugen zu bringen,

- d) ob sie bereit ist, den Fall des Angeklagten Hoerlein im Anschluss an den Fall des Angeklagten Duerrfeld processual abschliessend zu behandeln.

1 Anlage


(Dr. Otto Helte)

413
10

DER VORSTAND
DER CHIRURGISCHEN KLINIK
DES ALLGEMEINEN KRANKENHAUSES
DER STADT NÜRNBERG

am 14. April 1948.
FLURSTÄBCHEN / KOFFNUMMER 44884-38

Ich habe heute Herrn Professor
H e r z l e i n untersucht. Er wurde von mir
vor 6 Monaten wegen eines Tumors an der linken
Brust operiert. Heute leidet er an derselben
Erkrankung an der rechten Brustseite. Die
operative Entfernung des Tumors hat baldmög-
lichst zu erfolgen.

K. H. Steichale

(Dr. Steichale)
Stadt-Med. Direktor

414
①
MILITARY TRIBUNALS

Nuremberg, Germany

UNITED STATES OF AMERICA

Against

KRAUCH and Others (Case VI)

LED 30 April 1948
LH

Secretary General
of Military Tribunals
Nuremberg, Germany

FIRST JOINT MOTION OF THE PROSECUTION
AND DEFENSE TO CORRECT THE ENGLISH TRANSCRIPT

The Prosecution and Defense herewith join in moving:

(a) that all the corrections in the "Second Motion of the Prosecution to Correct the English Transcript", dated 13 February 1948, be made in the official mimeographed copies of the English transcript, except items 566, 575, 538, 853, 854, 871, 895, and 971; (b) that the Tribunal order forthwith that the corrections indicated below be made in the official mimeographed copies of the English transcript:

Item No.	Transcript page	Line (s)	PROPOSED CORRECTION
1.	1016	8	Change first word "stall" to "steal". Change "these was responsibility for extending for the mines" to read "and for extending the mines".
2.	1017	24-25	Delete all of line 24 and first two words of line 25. Replace with "actually these plants active in the industry concerned".
3.	1224	16-17	Add "is to" after "know" at end of line 16. Change first word in line 17 "represents" to "represent".
4.	1235	10	Change "by was of the DAG Trade-dart", to read "through the DAG Trade-dart".

- 1 -

The above motion approved in open court 3 May 1948.

1849

William F. Kenna
Assistant Secretary General
Tribunal VI

Item No.	Transcript Page	Line(s)	Proposed CORRECTION
5.	1235	12	Change "at the right charts" to read "in the middle of the charts".
6.	1242	14	Change "NI-772" to "NI-7772".
7.	1242	16	"1927-1937" should be "1934".
8.	1267	3-4	Change "are classified as counsel for the Prosecution? or the Defense." to read "are to be classified in the names of the counsel for the Prosecution or of the Defense."
9.	1320	7	Change first word "filing" to "filling" and "FBI," to "K Bi,".
10.	1343	21	"to fund" should be "to find".
11.	1344	15-16	Delete as repetition from "I have to" in line 15 to "his testimony". in line 16.
12.	1344	26	"the witness" should be "where the witness".
13.	1345	16	the fuel Commission" should be "this Commission".
14.	1349	2	"menthol" should be "methanol".
15.	1349	13	"require" should be "requires".
16.	1349	19-20	"product." should be "products."
17.	1357	2	"4713" should be "Exhibit 546, NI-4713,".
18.	1360	10	"1837" should be "1937".
19.	1362	31	Change "process, was licensed" to read "process and was licensed".
20.	1362	32	Place comma after "Germany",.
21.	1365	8	"of production" should be "since production".
22.	1366	1	"quality" should be "quantity".
23.	1370	8	First word "dilute" should be "diluted".
24.	1370	10	"but finds" should be "and finds".

Item No.	Transcript page	Line(s)	PROPOSED CORRECTION
25	1370	13	"extenters" should be "extenders".
26	1371	15	"dilute" should be "diluted".
27	1372	2-3	"consumption, ammonia" should be "consumption of ammonia".
28	1375	27	"lead aside" should be "lead aside".
29	1378	29	Delete "of" after first word "production".
30	1380	1	Delete heading, "EXPLOSIVES"
31	1380	2	Delete "TV. Stabilizers."
32	1381	10	"January 1939," should be "January 1937,".
33	1382	11	Delete heading "POISON GAS".
34	1383	24	"mentioned Omega" should be "mentioned that Omega".
35	1387	1	"NI-5681". should be "NI-5681, Exhibit 351."
36	1388	1	"utilizing" should be "neutralizing".
37	1388	2	"after a mustard gas". should be "of mustard gas."
38	1389	1	Place "A.-" at beginning of line and begin answer with "Oil".
39	1389	10	"NI-4494" should be "NI-4489".
40	1389	11	"Exhibit 116." should be "Exhibit 117."
41	1390	29	Last two words "is a" should be "concerns a".
42	1392	18	Insert "Exhibit 634," after "NI-7431,".
43	1393	17	Last word "as" should be "at".
44	1394	7	Insert "Exhibit 640," after "NI-7425,".
45	1394	25	Insert "Exhibit 646," after "NI-4994,".
46	1399	3	"it permission" should be "if permission".
47	1400	6	"Norwar" should be "Norway".

414
(4)

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
48	1401	20	Delete as repetition last two words "with oxygen".
49	1403	22	First word "his" should be "this".
50	1407	11	Insert "be" after second word "gasolines".
51	1409	17	"it is not" should be "is it not," with comma at end of line.
52	1409	19	"a great number" should be "a great amount".
53	1409	24	"it is note" should be "is it not,".
54	1411	7	"true up to about" should be "true that up to about".
55	1412	10	"for improve" should be "to improve".
56	1412	12	"addition" should be "additional".
57	1413	11	"from methanol" should be "that from methanol".
58	1415	19	"till find" should be "will find".
59	1415	31	"in general" should be "that in general".
60	1419	19	"practical" should be "practically".
61	1420	1	Delete entire line as repetition.
62	1421	8	Delete quotation marks before "From".
63	1425	7	"Keith Watt" should be "Keith Watt".
64	1427	20	Insert "it" after "clarification".
65	1427	24	"here as an" should be "here is an".
66	1429	10	Delete entire line.
67	1429	12	Insert "and the" before "establishment".
68	1429	13	Change comma to period after "mer- captans".
69	1430	18	"Exhibit 272" should be "In Exhibit 272,"
70	1430	25	"W80" should be "W20".
71	1430	26	Delete "and" before "in American processes".

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
72	1431	3/7	Place period after "chemistry" in line 3. Change from last word "the" in line 3 through all of line 6 and first word of line 7 to read: "The wetting agent tutogen, mentioned in that letter as necal, is known to you, and igepon is known to you, and also cragepon is known to you, cragepon which is called an intermediate for poison gas."
73	1431	15	"phæsgner" should be "phæsgene".
74	1431	20	"Keil Watt" should be "Keith Watt".
75	1436	3	"freeted" should be "freezes".
76	1437	23	Place semi colon after "other".
77	1440	25	Last two words "and products" should be "and these products".
78	1443	1	"etab-diaminodinitrate" should be "ethan-diaminodinitrate".
79	1444	9	Place quotation marks after "diamine" before the question mark.
80	1444	31	Insert the following after the first two words "not only": "concerning the extent of his knowledge of the subject but also".
81	1447	29	Change last word "of" to "in".
82	1447	30	Change "America, the inventor Bekele" to read "America of the inventor Bakeland," with comma after "Bakeland".
83	1447	32	Change "London-dynamite" to read "London, of dynamite". Change "of it as a molding article," to read, "of the thousands of molding articles,".
84	1447	32	Place comma after "gluss,".

4/4
⑤

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
85	1149	6/7	Change "that this is a historical fact, there was" to read "that with this historical fact of". Delete question mark at end of line 7 and replace with comma and dash.
86	1149	8	Delete entire line.
87	1149	9	Change "Q. Excuse me, I think it was too long?" to read "—Excuse me I am taking too long.—" (This is continuation of question in lines 6 and 7).
88	1154	11	"that is is of" should be "that it is of".
89	1158	19	"investion" should be "investigation".
90	1159	1	"manufacturers" should be "manufacture".
91	1159	4	Place question mark after "1936". Begin new sentence with "Do you". Delete "that" before "yesterday".
92	1159	22	"during the ears" should be "during the years."
93	1159	23	Place comma after "progress".
94	1161	9	Delete "about".
95	1161	16	"as of butylene" should be "as regards butylene".
96	1161	17	Place comma after "and so on".
97	1165	20/21	Change "about the thesis of chlorophyll" to read "with a thesis on chlorophyll."
98	1167	13	"devoted" should be "dedicated".
99	1169	30	"IC-281" should be "ED-281".
100	1170	5	Replace period after "plants" with dash (interruption).
101	1171	4	"positions" should be "places".

Item No.	Transcript Page	Lane(s)	PROPOSED CORRECTION
102	1483	19/20	Change "you state that investment figures all those you ascribed to Farben items" to read "you ascribed to Farben the investment figures of all those Participations".
103	1485	19	"Th is" should be "This is".
106	1487	19	Insert "which" before "adds up".
107	1488	21	Change first word "Third" to "3)".
108	1490	2	Last word "Hauels" should be "Huels".
109	1491	10	"MR. DUBOIS;" should be "MR. ALCHAM:"
110	1492	1	May I explain, the," should be "May I explain, then,".
111	1492	4	Place period after "Farben".
112	1493	19	End paragraph with first two words "and 3d." Then begin new paragraph as reply of witness, as follows: "A. Yes, a 30 to 40 million marks —"etc.
113	1493	27	"The total investment" should be "The total planned investment". Delete last two words in line "for the".
114	1493	28	Delete first word "latter". Next word "amounts" should be "amounted".
115	1494	15	Add the following after "save time,": "I do not discuss all the figures which I might want to criticize."
116	1494	16/17	Lines 16 and 17 should contain only the following: "A. But I would like to ask....."
117	1497	1	Change "seven categories, including alumina." to read "carbide mines, including indeed also alumina."

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
118	1497	2/3	Change "Pischer Plant, Hanau, Hoechst - obviously G. Hoechst, I assumed - expansion." to read "Pischer Plant; Hanau, tar Hydrogenation Plant; Hoechst - obviously an I.G. expansion."
119	1497	23	"you global" should be "your global".
120	1497	26	"619" should be "6.19".
121	1498	4	"1859" should be "0.859". "25.35" should be "20.35".
122	1498	29	"which you quite" should read "which, as you quite".
123	1498	30	Place comma after "examples,".
124	1500	17	Delete "they" after mobilization".
125	1501	5	Delete "and" after "Ungewitter" and change last word in line "they" to "which".
126	1501	9/10	Change "so-called industry concerns, R and KL, a designation meaning vital." to read as follows: "so-called armament concerns, R (Ruestungs-betriebe), and KL (Kriegs-und lebenswichtig) concerns, a designation meaning vital for the war and life."
127	1502	29	Change line from "Is that the Military Agency?" to read "No Military Agency?"
128	1502	32	Insert "and" after "yes,".
129	1503	4	"Schloidenstadt" should be "Schloiden-Anstalt".
130	1503	6	Delete one "further" as repetition.
131	1503	17	"Congress of I.G." should be "Meeting of I.G.,".
132	1503	18	Delete first two words "by I.G."
133	1503	19	"from this" should be "from quarry".

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
134	1503	20	"10 0 million" should be "100 million".
135	1503	26/27	Change "this in detail on the law, " to read "the capital structure of I.G.,"
136	1504	15	Change the last three words "on the direct" to read "not cross".
137	1504	28	Change "and not on interrogating matters" to read "and counsel is not interrogating on matters".
138	1504	19	Change first word "for" to "in".
139	1505	1	Insert "mentioned in your affidavit", after "Reich Marks". "split up jointly" should be "analyzed together."
140	1505	2	"some" should be "the".
141	1505	5	Change "want also to split up those shares" to read "want to say that this includes reserve shares,".
142	1505	7/9	Change lines 7, 8 and 9 to read as follows: "I agree with you that this is so. Then in order to compare the ratios, one would have to take the figure of the other firms of 75 million and not put down for Farben 1.1 billion marks but 800 million Reich Marks? That is, if our previous analysis is correct."
143	1505	14	"Wintersall" should be "Wintershall".
144	1505	16	Change "here it talks about stock capital," to read "here stock capital is mentioned,".
145	1505	17	"as Wintersall" should be "as Wintershall is concerned,".
146	1505	19	"That to the question" should be "in regard to the question".

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
147	1505	22/23	Change "is about the nitrogen and Farben which are significant," to read "is that the nitrogen and dyestuffs questions are synonymous."
148	1505	29/30	Change entire lines 29 and 30 to read "were to take the witness stand later than it would be very proper, and may well prove to be a very relevant thing for the defense counsel to arrange, but that".
149	1506	2	"are to state" should be "is to state."
150	1507	5	"quote" should be "quota".
151	1508	5	"First," should be "Second,".
152	1508	6	"second" should be "third", "third" should be "fourth". Last word "groupes" should be "group".
153	1508	7/8	Delete as repetition "fourth, the smaller works from the East ..."
154	1510	23	"which is" should be "which was".
155	1510	32	"Fiag," should be "Viag,".
156	1511	1	"Fiag" should be "Viag".
157	1511	21/22	Change "GHEG - The Casting Company, some light metal works, the Pulverfabriken Company; finally a light Metal GHEG," to read "GmbH; Metallguss GmbH, Leipzig; the Westfaelische Leichtmetallwerke; the Pyrophor Gesellschaft; the Pulverfabriken Company; finally, a Leichtmetall GmbH,".
158	1512	6	"Metal Work" should be "Metallwerke".
159	1512	19	"NI-10013," should be "NI-10035,".
160	1512	22	Delete comma after "per cent".

4/4
④

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
161	1512	29/30	Change comma to period after "ones" in line 29. Delete "the chemical factory of Holten, but".
162	1513	16	Delete "that in your test,".
163	1514	15	"produce" should be "product".
164	1514	18	Change "saw, made an assignment here that led" to read "saw an assignment here, it led".
165	1517	2	"Galahofen" should be "Galesenberg".
166	1517	6	"Rheinbraun" should be "Rheinische Braunkohle".
167	1519	6	"with that I mentioned" should be "which I mentioned".
168	1519	7	Delete second "also" as repetition.
169	1519	23	"1300%" should be "thirteenfold".
170	1519	31	"now that the condition that" should be "now the condition that".
171	1521	7	"opening" should be "opinion".
172	1523	16	"given" should be "restored".
173	1524	8/9	Change from "in the sale in some" in line 8 through line 9 to read "in the sale of Chile saltpetre in some other important countries as compared to the sale in Germany."
174	1524	27	Change "import anything from Poland?" to read "export any to Poland?"
175	1525	10	"import anything" should be "export any".
176	1526	18	"territories was" should be "territories for Chile was".
177	1526	19	Delete last two words "in Chile".
178	1529	10	"HI-7745" should be "HI-7743".

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
179	1532	4	"not distinction" should be "no distinction".
180	1532	22	Delete "LR. ALCHAN:" (This is a continuation of question in preceding line).
181	1532	23/24	Insert the following line between lines 23 and 24: "LR. ALCHAN: I would like to say that this question is out of place."
182	1532	25	"referred it." should be "referred to."
183	1533	20	"I have" should be "I had".
184	1534	26	"give" should be "gave".
185	1536	27	"on spars" should be "one spars".
186	1537	1	First word "better" should be "Farbon".
187	1537	4	Change "of all reports to" to read "in all plants of". Change comma to period after Farbon.
188	1539	1	"Yes, I do." should be "Yes, I can."
189	1539	32	"von Hoyde" should be "von Heider".
190	1541	4	Third word "agree" should be "agreed".
191	1541	6	Delete "their" before "examination".
192	1541	8	Delete last word "that".
193	1541	16	Delete "have" before "established".
194	1542	30/31	Change "and I could reconstruct it now after all publications, - were" to read "about which I have learned since through publications - and were".
195	1543	11	Change "the following of people on the strength" to read "the tendency of people who on the strength".
196	1544	3	Delete "of" before "an aggressive war".
197	1544	4/5	Delete period after "countries". Change "It did not justify precise plans which may have been made," to read "or that precise plans had been made,".

4/4
13

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
196	1544	6	"under circumstances" should be "under certain circumstances".
199	1545	6	"motorized" should be "militarized".
200	1545	25	"on the basis" should be "against the basis".
201	1547	21	Add "and" after "time" at end of line.
202	1547	28	"admissible" should be "inadmissible".
203	1552	2	Change first word "war" to "was".
204	1552	16	Change "matter is a matter" to read "matter that this is a matter".
205	1552	18/19	Change "in its multiplicity that a mere yes or no answer by witness Schmidt is to a speech rather than to an individual question" to read "I hold that if the witness is to answer with a mere yes or no answer, this won't do because the question in its multiplicity is more a speech than an individual question".
206	1552	25	First word "a" should be "the".
207	1552	32	"and ask whether" should be "and asked whether".
208	1553	14/19	"casus belli" should be "casus belli".
209	1553	30	"Anschluss" should be "Anschluss".
210	1554	4	First word "what" should be "which". Change "thought were" to "thought they were".
211	1554	6	Delete "was" before "unjust".
212	1554	8	Delete last two words "to that".
213	1556	22	"have ruled" should be "have been ruled".
214	1557	8	Place comma after "motions,".
215	1557	10	"That is perfectly" should be "It is perfectly".

214
(14)

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
216	1557	14	"That would hardly" should be "It would hardly".
217	1557	24	Delete last word "at".
218	1558	14	Insert word "that" after "1933".
219	1559	2	"uri et orbi" should be "urbi et orbi".
220	1560	3	"liago" should be "contact".
221	1562	32	"that they were renegades" should be "when they were renegades,".
222	1563	3	"people for" should be "people if for".
223	1563	4	"multiplex" should be "multiplicitous".
224	1567	30	Add word "to" at end of line.
225	1567	31	Place comma after "Austrians."
226	1568	31	Place quotation marks before last word "the".
227	1569	4	Place quotation marks after "Lobone- raum".
228	1569	6	Place quotation marks before "the justification".
229	1569	8	Place quotation marks after "leadership".
230	1570	5	Place quotation marks before "The soldierly".
231	1570	6	Place quotation marks after "Nosis".
232	1572	13	"defensive" should be "aggressive".
233	1572	24	Change "rather not believe his own government would believe" to read "would not believe his own government and would believe".
234	1573	2	Delete "outside forces for the use of".
235	1573	3	Insert "from outside forces," after "impressions".
236	1573	12/16	Delete lines 12, 13, 14, 15, 16 and replace with the following:

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
237	1573	12/16 (cont'd)	I believe I have added in my affidavit also the expression "in ever increasing degree" especially for this reason. In ever increasing degree, he had to doubt and in ever decreasing degree he could not believe what was said to him, and this came automatically without any effort on his part, without his occupying himself with these things with any intention or loss of time.
238	1573	19	Delete first word "that".
239	1576	5	Delete last three words "judge that he".
240	1576	22	Place comma after "apart from that".
241	1577	3	"iota" should be "lots".
242	1577	8	"starring" should be "steering".
243	1577	10	Delete "Q" at beginning of line (continuation of answer).
244	1577	12	Place "Q" before "May I put" and begin new paragraph.
245	1577	13	"observance" should be "observer".
246	1577	29	Delete second word "not".
247	1578	13	"asserted" should be "created".
248	1586	7	"Franck" should be "Frank".
249	1586	14	"reforme" should be "refers".
250	1587	8	"on the facts" should be "on the fact".
251	1587	24	"that time was" should be "that time that was". Place comma after "majority".
252	1587	31	"well know," should be "well known,".
253	1588	14	"as contrary evidence. As is stated" should be "as contrary to such evidence as is stated".
254	1588	16	Last word "ask" should be "assume".

444
16

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
255	1589	5	Insert "with a simple yes." after "answer".
256	1589	7	"was your favority rag" should be "was your favorite paper".
257	1591	16	"and in the very last" should be "even in the very last".
258	1591	30	Place quotation marks after "again".
259	1592	12	Second word "to" should be "from".
260	1592	25	Change "the intention of talking" to read "that I have talked".
261	1593	4	"for non-expert" should be "for a non-expert".
262	1593	7	"of certain arms" should be "of certain aims".
263	1594	6	"the latianship of of these" should be "the relationship of these".
264	1594	15	"raiso" should be "rise".
265	1594	25/27	Replaces lines 25 through 27 with the following: A. Yes. Q. I quote: "although Doenitz had built up and trained the U-boat Navy, the evidence does not show that he had knowledge of the conspiracy for waging of aggressive wars or that he prepared and began such wars. He was a career officer who carried out purely military tasks. He was not present in important discussions in which plans for aggressive wars were made known, and there is no evidence that he knew about the decisions which were agreed upon." And so I would like to ask you now whether it is known to you that the ordinary German

4/4
⑪

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
266	1594	25/27(cont'd)	or any of these defendants, know more about the German aggressive war intentions, about Hitler's aggressive war intentions, than Schnacht and Doornitz?
267	1594	30	"It was" should be "It was".
268	1596	2	Delete "before you". Last two words "how we" should be "why we".
269	1597	1	"has averted" should be "has been averted".
270	1597	5	"that they must know" should be "to know".
271	1598	4	First word "forces" should be "force".
272	1603	2	"head of the" should be "head of a".
273	1603	10	"from the then" should be "from then"
274	1603	10	Last date "1934" should be "1943".
275	1606	7	Change "Mostly he who was not" to read "who mostly was not".
276	1607	19	Change first word "Fleiger" to "Klaiber".
277	1608	12	"intermediate" should be "intermediates".

4/4
(18)

Item No.	Transcript page	Line(s)	PROPOSED CORRECTION
278	1611	12	"Prosecution" should be "production".
279	1611	16	Delete "on" before last word "yesterday".
280	1612	8	Last word "attornies" should be "attorneys".
281	1612	27	"though" should be "thought".
282	1612	30	"contain" should be "contrary"
283	1613	17	"which we here" should be "which we are here."
284	1613	32	Second word "possible" should be "possibly".
285	1614	4	Place comma after "fact" and before "if".
286	1614	16	"who was associated" should be "whom he was associated".
287	1615	2	Place period in place of comma after "book". Delete last two words "for instance" as repetition.
288	1617	12	"to oberse" should be "to observe".
289	1618	4 - 5	"by cross examination" should be "by not cross examining".
290	1619	10	"Document Book 56" should be "Document Book, page 56,".
291	1619	12	Place comma after "government".
292	1619	21-22	"to anticipated" should be "to be anticipated."
293	1620	15	"it war necessary" should be "it was necessary."
294	1620	32	"peior to 1939" should be "prior to 1939".
295	1623	14-15	Delete as repetition "then this probative value for the prosecution,".
296	1623	28	"to either" should be "to any".
297	1624	3	"to either" should be "to any".
298	1624	31	"is only" should be "is the only".
299	1625	28	"to all affidavits." should be "to all those affidavits."
300	1627	7	"I believe to remember" should be "I believe I remember".

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
301	1626	1	"Dyerbenfurt" should be "Dierferrit GmbH".
302	1628	5	"phosphor" should be "phosphorus".
303	1628	28	"both to time," should be "also to time."
304	1630	16	Change "product to such as hydrochloric" to read "product such as hydrochloric".
305	1632	11	"sales combine" should be "sales department".
306	1633	16	Delete "already" after "practically".
307	1634	21	"Haverlandt" should be "Borgwardt".
308	1634	22	"in detain" should be "in detail".
309	1635	2	"No. 9126" should be "NI-9126"
310	1635	14	"let" should be "list"
311	1635	15	Place comma instead of period after "Dubuss".
312	1635	16	Change "and I don't know whether he was asked about that," to read "but I don't know,".
313	1635	31	Change entire line to "counter-intelligence office (Abwehrbeauftragter)".
314	1636	1	Delete line 1 as repetition.
315	1636	7	"after the war," should be "after the war broke out,".
316	1636	15, 17, 28.	"metal company" should be "Metallgesellschaft" ^{name} (proper/ of a firm and should not be translated).
317	1636	16	Change "who transferred this sales manager to us", to read "who appointed its sales manager."
318	1637	8	"Mr. Meyer and Kistor," should be "Mr. Meyer- Kneaster."
319	1639	3	"to order" should be "in order".
320	1639	14	"chemical" should be "chemicals".
321	1639	22	The quotation marks before "as" should be after "principle,".

Item No.	Transcript	Line(s)	PROPOSED CORRECTION
322	1639	25	Delete "the methods which".
323	1640	22	Delete "Q." at beginning of line (Continuation of answer).
324	1640	26	Change question mark to period at end of paragraph after "body".
325	1640	26	Line 26 should be changed to read as follows: "Q. Then, when immediate decisions were necessary? A. yes."
326	1642	14	"Nica-nitrogen" should be "Nica Nitrogen"
327	1644	2	"micronitrogen" should be "mica nitrogen".
328	1644	25	"It is quite" should be "it was quite".
329	1645	4	"and Leverkusen" should be "at Leverkusen".
330	1645	11	Delete "the" before "resolutions". Last two words "if the" should be "of the".
331	1647	30	Add "Document NI-9126" at end of sentence.
332	1648	1	"Plenipotentiary for matters of counter- intelligence" should be "counter-intelligence officer".
333	1644	12-13	Place comma after "Chemicals". Delete parentheses around "the Sales Combine Dyestuffs," placing comma after "Dyestuffs".
334	1649	23	Change semicolon after "again" to comma.
335	1650	5	Delete comma after "meant".
336	1650	18	"the with that" should be "the wish that".
337	1652	7	"but that to was left " should be "but it was left".
338	1652	12	Change last word-"combine" to "department".
339	1652	13	"B upon " should be "it was done on".
340	1652	14	Place quotation marks after "world".

Item No.	Transcript page	Line(s)	PROPOSED CORRECTION
341	1652	15	Delete quotation marks after "enemy".
342	1652	17	"It should not be" should be "it should not read"
343	1653	28	Delete comma after "cases". "average" should be "individual".
344	1656	9	Delete word "no" before "agreement".
345	1657	6	Delete the words "further cross".
346	1657	15	Change "Count II. He will be involved considerably and we" to read "Count II where he will be involved considerably. And we".
347	1660	3	"MRS. MAYER" should be "MISS MAYER".
348	1660	6	"The first book" should be "The next book".
349	1660	20	"real was was" should be "real war was".
350	1660	26	"certainly" should be "certainty".
351	1661	3	"leesee" should be "losses".
352	1662	14	"accompanied" should be "accomplished".
353	1662	23	"and Western" should be "of Western".
354	1664	11	Add "and" after last word in line "return".
355	1665	6	"Ivy Lees" should be "Ivy Lee".
356	1665	16	"XVIII" should be "XVII".
357	1665	26	Place comma after "gave".
358	1667	5	"921" should be "XI-10921".
359	1667	8	Change "Burnham Carter. Carter before" to read "Burnham Carter before".
360	1668	2	"Schmidt" should be "Schmits".
361	1668	22	"significate" should be "significant".
362	1669	6	Last word "come" should be "came".
363	1669	17	Place quotation marks before last word "Germany".
364	1669	22	Place quotation marks at end of paragraph.
365	1669	23	"ture" should be "true".

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
366	1670	6	Place quotation marks at beginning of line.
367	1670	13	Place quotation marks at end of paragraph.
368	1670	17	Place comma after "recommendation".
369	1671	23-30	Place quotation marks at beginning and end of this paragraph.
370	1673	6	"who is" should be "who was".
371	1673	7	"abroad who" should be "abroad and who".
372	1674	3	"of the meeting" should be "of a meeting".
373	1674	13	"of the meeting" should be "of a meeting".
374	1675	24	Delete line 24 and everything that follows on this page.
375	1676	1-11	Delete all these lines to paragraph beginning "apart from".
376	1676	13-16	Place quotation marks around this paragraph.
377	1676	17-20	Delete this entire paragraph beginning with "The News Agency".
378	1676	21	Place "In the last paragraph of the document, Gattineau says:" as a separate paragraph before paragraph beginning "the Press Attache".
379	1676	21-24	Place quotation marks around paragraph beginning "The Press Attache".
380	1676	25-26	Delete "POLITICAL ECONOMIC DEPARTMENT (Signature): MUTHMANS (?) and place the following as a complete paragraph in its place: "The question of the contribution was referred to the Central Committee."
381	1679	10	Change comma after "The Tribunal has" to period.
382	1680	9	"fall" should be "feel", "calling attention to" should be "calling the attention of".
383	1680	21	"taken not" should be "taken note".
384	1681	7	"page number" should be "page numbers".

Item No.	Transcript page	Line(s)	PROPOSED CORRECTION
385	1681	15	"MISS" should be "MISS MAYER".
386	1685	2	Place period after "doubt". Begin new sentence with "Gentlemen".
387	1686	26	First word "The" should be "This".
388	1687	20	Change semi-colon after "1945" to period.
389	1687	29	"Turing" should be "Turning".
390	1687	30	Change comma after "page 4" to period.
391	1687	32-33	Change "English book, 44," to read "English Book 44,".
392	1688	1	"W mbeasy" should be "Embassy".
393	1688	2	"Goreign" should be "Foreign".
394	1689	20	"The min to" should be "The memorandum".
395	1691	10	"place" should be "placed".
396	1691	16	"anit-US" should be "anti-US".
397	1692	8	"posae" should be "pees".
398	1692	21	Last word "was" should be "were".
399	1693	13	"editors" should be "editor".
400	1693	23	"June 1928 and 1929" should be "June 28 and 29, 1940".
401	1693	27	"all defense" should be "all endeavors".
402	1693	28	"reproachment" should be "rapprochement".
403	1694	9-10	Change "Exhibit 280 of the German." to read "Exhibit 820, Document HI-1327, which appears on page 143 of the English and on page 207 of the German."
404	1694	19	"This is a meeting" should be "This is the minutes".
405	1694	16	"HI-977" should be "HI-9777".
406	1694	17	"Hansin" should be "Hansen".
407	1694	19	Last word "Hansen" should be "Bayer".
408	1695	10	Place "(for Dr. Engler)" after "DR. HENZE".
409	1698	4	Delete the word "always".

444
(24)

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
410	1698	8	"Affidants" should be "affiants".
411	1699	11	"available to you in" should be "available to you in the".
412	1699	12	Place period after first word "transcript".
413	1703	1	"Frank-Falla, Deik-Fischer" should be "Frank-Fahle, Deichfischer".
414	1703	19	"after that film" should be "after the film".
415	1706	14	"self of else" should be "self or else".
416	1709	16	Insert in quotation marks the phrase "preparation for war" after "numeral II:" Delete quotation marks before "I understand".
417	1709	20	Delete quotation marks after "complications" and also before "This".
418	1709	23	Delete quotation marks at end of paragraph.
419	1711	5	"ashort while" should be "a short while ago".
420	1711	6	Change "before you made" to "then".
421	1712	18	"on one of the Department in" should be "of one of the Departments in".
422	1712	21	Place semi-colon after "oils".
423	1712	22	Delete semi-colon after "1934".
424	1714	24	"carried for Farben" should be "carried on for Farben".
425	1716	16	"official requested, but they" should be "officially requested, but you".
426	1716	18	"quaranty" should be "guarantee".
427	1717	17-18	Change "in the statement, that is to say," to read, "in your statement in which you say,"
428	1717	18	Place quotation marks before "the artificial fiber industry."
429	1717	20	Place quotation marks after "synthetic rubber".
430	1717	21	Place quotation marks before "from the statements".

Item No.	Transcript page	Line(s)	PROPOSED CORRECTION
431	1717	23	"armament industry" should be "iron producing industry". quotation
432	1717	24	Place/parks after "was read."
433	1718	13	Add "What else?" after this sentence.
434	1718	17	Add the following after line 17, to complete page: *Q. How were caustic soda production and the sale of caustic soda products regulated in Germany? Do you know? A. I believe by a syndicate. Q. By a caustic soda syndicate? A. Yes. Q. Do you know I.G.'s share in this? A. No. Q. It was in fact 23 %. And what else belongs to the production of artificial fibers? A. In my opinion, these were the important items."
435	1720	22	"that any spot" should be "that in any spot."
436	1720	27	"in the tanks" should be "for the tanks".
437	1721	12	"as the tanks" should be "as for the tanks"
438	1721	26	"of the Farben" should be "of Farben".
439	1722	1	"licensees" should be "licensees".
440	1722	6	Change comma after "gasoline" to period. Begin new sentence with "gas".
441	1722	18	"Zisterndarf" should be "Zisterndarf".
442	1723	3	Change "plants, Doebysite, it is" to read "plants. There was Doeberitz. It is".
443	1723	4	Change first word "probable" to "possib"
444	1723	15	Change "for knowing about it" to read "in order to know about it."

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
445	1733	27	Change "Exhibits No. 1 translated" to read "Exhibit No. 1 be translated".
446	1734	3	Change "when this affidavit was brought up" to "for this affidavit brought up".
447	1734	4-5	Change "I know the procedure later on but" to read "I know the later procedure but".
448	1734	15	Delete entire line as repetition.
449	1737	5	Place comma after "Reich Agency".
450	1737	7	Delete commas around "additionally".
451	1737	29	Change first word "then," to "the time",
452	1738	33	Change "Farben who were in a position to use Dr. ter Meer's agency seemed to" to read "Farben used this position of Dr. ter Meer seemingly".
453	1739	1	Delete first three words "use their position"
454	1730	6	"Exhibit 544" should be "Exhibit 504".
455	1730	11	"arrived" should be "obtained".
456	1731	20	"could not be " should be "could only be".
457	1731	23-24	Change "placed this foreign currency at the disposal of the I.G.I." to read "granted this foreign currency license to the I.G.I."
458	1732	3	"has explained it intended" should be "had explained its intended".
459	1732	4	Change semi-colon after "submitted" to comma
460	1732	27	"at the time" should be "that at the time".
461	1733	1-4	Delete from "the reason" in line 1 through line 4 and replace with the following: "the real motivation for such a general directive arose when the majority of the central offices for regulating imports, were set in September 1934; the notification and inclusion of these offices followed but essentially later,"

Item No.	Transcript page	Line(s)	PROPOSED CORRECTION
462	1737	26	Delete "after".
463	1739	12	Place quotation marks and period after "Dr. Ungenietter said". Delete single quote before "Can I".
464	1739	13	Place quotation marks around "the possibly imminent war".
465	1739	14	Delete single and double quote at end of paragraph.
466	1739	16	"with the assumption" should be "with assumption".
467	1740	12	"either questions" should be "other question
468	1741	1	"After" should be "Before".
469	1742	21-23	Change "to the date which is known to me", to read "to a date which is not known to me"
470	1743	9	"session" should be "discussion".
471	1743	11-12	Change from "Immediately after" in line 11 through line 12 to read as follows: "Q. In September 1939, that means after the outbreak of the war? A. I think it was either August or September 1939."
472	1743	14	"before 1939" should be "before September 1939".
473	1744	16	Change last word "and" to "which".
474	1745	18-19	Change "with Dr. Struss, Dr. Berndt and defense counsel Ter Meer is beginning to work him either" to read "with Dr. Struss, Dr. Berndt, defense counsel for the defendant ter Meer, will work with him either".
475	1747	14	Insert "its wishes" after "indicated".

Item No.	Transcript page	Line(s)	PROPOSED CORRECTION
476	1751	13	Last word "subjectively" should be "subjectiv
477	1751	16	"is the interest" should be "is in the interest".
478	1752	32	First word "is" should be "us",
479	1752	39	First word "concerning" should be "concerns".
480	1753	1	Change "documents etc. It would" to read "documents, etc., it would".
481	1753	2	Change comma to period after "recess". Begin new sentence with "At this point,".
482	1753	16	"that is more" should be "that are more".
483	1753	23	Last word "no" should be "now".
484	1753	31	"German III" should be "German page 111".
485	1755	30	Change "economical, political department" to read "Political Economy Department (Wirtschaftspolitische Abteilung)".
486	1756	1	Change "Peoples Political Department" to read "Economic Research Department (Volkswirtschaftliche Abteilung)".
487	1756	26	Change "economical politic," to "political economy,".
488	1755	24	Delete first two words "which I".
489	1771	3, 13, 21 etc.	"Wipe" should be "WIPO".
490	1771	10	"Do you want to" should be "Do you want me to".
491	1771	26	"had idea" should be "had no idea".
492	1771	26	"the no one informed" should be "that no one is informed".
493	1771	30	"at 1938" should be "as 1938".
494	1773	4	"these existed" should be "there existed".
495	1774	18-19	Insert the following two lines between lines 18 and 19: - 28 -

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
			"A. Yes.
			Q. Did Dr. Sievers also belong to this group?"
496	1783	4	"affidavit" should be "affidavits".
497	1786	10	Delete second word "a".
498	1787	11	Change entire paragraph to read as follows: "So that in the activity which you have now been carrying through, essentially a listing activity, that is, the figures that you found for I.G. Farben or for combined concerns you have listed according to the specifications of the Prosecution?"
499	1787	12	Place period after "correct." Begin new sentence with "From the work".
500	1788	5-6	Insert "A. Yes." Between lines 5 and 6.
501	1790	2	"Reiche" should be "Reich".
502	1790	6	Place semi-colon after "depreciation" at end of line.
503	1790	8	Insert "they" after "agencies" and before "were".
504	1790	10	Delete "these".
505	1790	20-21	Insert "A. Yes." between lines 20 and 21 Place "Q." before line 21.
506	1791	6	"the second one" should be "the first one".
507	1792	23	"HI-1005" should be "HI-10005".
508	1794	5	"guorum" should be "quorum"
509	1794	11	First word "may" should be "say".
510	1795	24	"firm's" should be "firms". "Lonalin" should be "Lonel".
511	1795	28	Add "produced" after "actually" at end of line.
512	1796	10	"There is" should be "There it". Change period to colon after "sentence".

44
(30)

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
513	1799	11	"Godeff" should be "in Godeff".
514	1807	21	"even they" should be "even though they".
515	1809	7-8	Insert "A. No." between lines 7 and 8. Change "A." before line 8 to "Q".
516	1810	20	"Let me brief" should be "Let me be brief".
517	1814	8-9	"that patent" should be "these patents."
518	1818	7	"NI-8990" should be "NI-8980".
519	1820	14	"NI-8970" should be "NI-8979".
520	1822	3	"when" should be "whom".
521	1823	24	"quit correct" should be "quite correct".
522	1823	30	"associated" should be "associates".
523	1824	14	Change comma to period after "Mann" Begin new sentence with "At page 8".
524	1824	15	Change period to comma after "text". Continue same sentence with "it is noted".
525	1824	26	"Case Bayer" should be "Case Beyer".
526	1824	30	"as a next series" should be "as the next series".
527	1825	7	"EWI" should be "EW-7".
528	1828	30	"they themselves" should be "thence".
529	1828	31	"appears" should be "appear".
530	1829	3	Delete quotation marks after "example:"
531	1829	4	Place "1)" between quotation marks and first word "To" at beginning of line.
532	1829	7	Delete quotation marks at end of line.
533	1829	15	"88" should be "87".
534	1830	1	Delete first two words "in the" as repetitious
535	1834	14	"work" should be "word".
536	1836	13	Delete "Krusper" after "YONI".
537	1836	14	Place quotation marks around "he". Delete quotation marks before "referring".
538	1836	19	"purpose" should be "purposes".

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
539	1840	16	Place quotation marks at beginning of line.
540	1840	17	Place quotation marks at beginning of line.
541	1840	23	Place quotation marks at end of paragraph.
542	1841	26	"36" should be "45".

44
(22)

Item No.	Transcript page	Line(s)	PROPOSED CORRECTION
543	1845	4	"that he exercise" should be "that they exercise".
544	1845	19	Change comma to period after "three groups".
545	1845	20	"personal date" should be "personal data".
546	1845	24	Change "comprising the I.G. production, new plant," to read "concerning I.G. production, new plants,".
547	1853	3	"was asked" should be "were asked".
548	1855	22	"on the head" should be "of the head".
549	1865	28	Change "the Autobahn; I" to read "the Autobahn, the Volkswagen plans; I"
550	1865	29	"which in propaganda" should be "which propaganda".
551	1866	10	"was only built" should be "were only built".
552	1866	14	"plant" should be "plants".
553	1868	12	"were expected" should be "was expected".
554	1868	26	"exatted" should be "exalted".
555	1869	3	"Dr. Kregler" should be "Dr. Krekeler".
556	1870	30	"391" should be "Exhibit 391".
557	1870	31	"WJ-9487" should be "NI-9487".
558	1871	25	"technical enterprises" should be "military enterprises".
559	1875	28	"Specifically, left" should be "Specifically, we left".
560	1876	27-28	Change "of Sparte I, representative" to read "of Sparte I, Dr. Ritter and later Dr. Diekmann, and the representative".
561	1877	26-27	Insert the following between lines 26 and 27: "Q. I have still another question. Concerning the construction of this plant, do you know when it was built?"
562	1878	2	Insert "to a Tolucal plant" after "war" and before "upon".
563	1878	3	"who competent" should be "who was competent".
564	1880	22	"1033 and 1034" should be "10033 and 10034".
565	1880	24	"for the Austria" should be "for Aus".

Item No.	Transcript page	Line(s)	PROPOSED CORRECTION
566	1882	8	Change "in what sense?" to read "A moral judgment in a bad sense?"
567	1882	12	Last word "plan?" should be "plant?"
568	1882	16	"Farben should be" should be "Farben was",
569	1885	26	"direction" should be "direct" Change last word "also" to "beyond".
570	1887	2	"ceutical" should be "pharmaceutical".
571	1887	4	"of his own" should be "of its own".
572	1888	23	"because" should be "when".
573	1888	26	Change "books; and why in" to read "books and also in".
574	1890	13	"task which the" should be "task of the".
575	1890	23- 24	Delete both lines.
576	1890	25	Change "Well; in other words", to read "So, no,".
577	1891	4	"historical" should be "commercial".
578	1895	2	Delete. Not in the German.
579	1895	3	Delete "Q." at beginning of line. This is a continuation of question begun in line 1.
580	1896	10	"of the head" should be "or the head".
581	1896	30	"production matters" should be "production and similar matters".
582	1896	23	"these matters" should be "this field".
583	1896	25- 26	"these things" should be "this field".
584	1896	28	"these matters" should be "this field".
586	1897	14- 15	Delete "as well as the technicians" as repetition.
586	1900	1 and 3	"manoeuvre" should be "maneuver".
587	1900	12	"NI-8310" should be "NI-8319".
588	1900	26, 29, 32	"gypsum" should be "gypsum".
589	1900	33	Place dash after "installation" and before "I".
590	1901	12	First word "plants" should be "plant".
591	1901	15	Last two words "as it" should be "than it".
592	1901	26	"private from a economic" should be "from a private economy".

44
(34)

Item No.	Transcript page	Line(s)	PROPOSED CORRECTION
593	1903	5	Change "released in the year of 1925" to read "retired in the year of 1945?" Insert after this answer "A. Yes," and change rest of line to new question "Q. Is it true?"
594	1903	6	Insert "alternately" after "represented".
595	1903	22	"virid" should be "vivid".
596	1903	25	"Hamburg" should be "Ambros".
597	1903	30	Delete "Dr." before "Would".
598	1903	2	Last two words "a member" should be "members".
599	1904	19	"1938" should be "1933".
600	1905	13	"Aluminum Werke GMBH" should be "Aluminiumwerk GmbH".
601	1905	14	"Property Community" should be "Works Combine".
602	1905	16	"Aluminum GMBH" should be "Aluminiumwerk GmbH".
603	1906	15	"Aluminum plant GMBH" should be "Aluminiumwerk GmbH".
604	1906	20	Place comma after "certainly".
605	1916	6	"about things" should be "about those things".
606	1918	20	Change question mark to period at end of this answer.
607	1919	13	Delete last word "the".
608	1920	14	Change the "inorganic plant Gendorf" to read: Gendorf ex "inorganic plant".
609	1920	15	"Anorgona" should be "Anorgona".
610	1920	16	"Hydernfurth" should be "Dyhernfurt".
611	1921	2	"occasion" should be "concession".
612	1923	7	"of the OKH" should be "by the OKH".
613	1924	6	"ca" should be "circa".
614	1925	27	Delete "not" after "even".
615	1927	9	"fater" should be "after".
616	1927	10-11	"metals plants?" should be "Metallgesellschaft?"

44
35

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
617	1927	12	"metal works" should be "Metallgesellschaft".
618	1928	5	Insert "48" between "47" and "98". Change "103" to "102". Change "104" to "106".
619	1928	6	Change "641" to "541"
620	1929	19	"would remain you" should be "would remind you".
621	1930	10	"Mr. Prosecution" should be "Mr. Prosecutor".
622	1930	19	Insert "whether" after "yourselves".
623	1930	30	"at that the earliest" should be "that at the earliest".
624	1930	31	Change period to comma after "morning".
625	1934	14	"upon the" should be "upon by the".
626	1934	23	"I" should be "myself".
627	1935	4	"Farben committee" should be "Dyestuffs Committee".
628	1935	13	Change "I have correct" to read "I would make the correction, among other things,".
629	1936	21	Last word "background" should be "foreground".
630	1937	5	Insert "began" after second word "war".
631	1938	14 & 16 & 22	"Sales Committee" should be "Commercial Committee".
632	1940	13	"materials" should be "material".
633	1942	27	Last word "affidavit" should be "affidavits".
634	1946	17	Change "Including New Order (Neue Ordnung)" to read "Including New Order (Neue Ordnung) Questions." with quotation marks after "Questions."
635	1949	4	Delete quotation marks before "In many cases".
636	1949	9	Delete quotation marks after "economy".
637	1949	13	Place quotation marks after first word "Agencies".

44
(36)

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
638	1949	15	Change "which I have learned that after the collapse" to read "about which I learned after the collapse".
639	1949	28	Insert "since" between "export" and "after".
640	1950	2	First word "they" should be "who".
641	1951	18	First word "records" should be "writings".
642	1952	15	Change: a contribution" "Extended to read: a contribution" - the German expression "Beitrag" - "extended
643	1952	18	First word "property" should be "properly".
644	1953	25	Last two words "is was" should be "it was".
645	1956	8	"desires" should be "desire".
646	1961	10	"as have" should be "as has".
647	1963	4	"hymanalogy" should be "analogy".
648	1964	23	"D.G." should be "I.G."
649	1966	2	Place comma after "commissions".
650	1967	9	"Mr. Weibel" should be "Mr. Naibel".
651	1969	9	"fraction" should be "fraction".
652	1969	28 -29	Change the I.G. such" should be "that about the I.G. was such".
653	1969	30	"that was natural" should be "it was natural".
654	1970	4	"was administration" should be "war administration".
655	1970	27	Place "QV" at the beginning of line.
656	1970	28 -29	Place "A, yes" between lines 28 and 29.
657	1971	3	Place comma after first word "not".
658	1974	4	Last two words "the latter" should be "the affair".
659	1974	7	"had been waived" should be "has been waived".
660	1975	8	"know at" should be "know the

444
(37)

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
661	1975	15	"Gattineay" should be "Gattineau's".
662	1977	3	"can lay" should be "cannot lay".
663	1977	8	Last word "was" should be "were".
664	1978	5	"I.G. to abroad" should be "I.G. abroad".
665	1978	9	"to do so such time" should be "to do so at such time".
666	1981	31	Delete "it" before last word "was".
667	1983	9	Insert "and the NSDAP" after "Hitler".
668	1983	10	Delete all but first word of line 10.
669	1983	11	"as the the word" should be "as to the word".
670	1985	6	Place period after "taken place". Begin new sentence with "It was".
671	1985	7	Add "was it?" after "committee".
672	1986	31	"Exhibit 59" should be "Exhibit 759".
673	1987	14	"experiments" should be "experience".
674	1987	28	Place period after "question".
675	1990	12	"That is what" should be "That is why".
676	1991	15	"counsel, that" should be "counsel who".
677	1992	14	Change "he may answer." to read "and to that he may answer."
678	1996	11	"our affidavit" should be "your affidavit".
679	1996	21	Place quotation marks after "in varied cases".
680	1996	31	Change comma after " Brinckman " to period.
681	1997	17	Place period after "saw them." Begin new sentence with "They were,".

44
(38)

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
682	1997	23	"movatorium" should be "moratorium".
683	1997	26	"were often" should be "was often".
684	1997	29	"these 'movatoriums'" should be "this 'moratorium'".
685	1998	24	"as attempt" should be "an attempt".
686	1998	29	Add "A. yes," at end of page as line 30.
687	1999	12	First word "chart" should be "nerve".
688	1999	22	Change "They refer to how they were passed to the Reichsbank," to read "It refers to the deliveries to the Reichsbank."
689	2000	19	Place "Q." at beginning of paragraph.
690	2000	25-26	Place "A. yes," between lines 25 and 26.
691	2001	1	"at before 1933" should be "that before 1933".
692	2002	3	"is the relation" should be "was the relation".
693	2002	9	Change period after "No. 2" to comma and continue sentence with "it's beyond".
694	2003	25	"appreciate," should be "appreciated."
695	2007	13	"witness" should be "witnesses".
696	2007	18	"in raised" should be "is raised".
697	2007	27	First word "on" should be "or".
698	2008	9	"witness," should be "witnesses,".
699	2015	7	"drafter" should be "drafted".
700	2015	24	Delete comma after "trade" at end of line.
701	2015	33	"I think now," should be "I think not,".
702	2016	4	Change "to be carried on to the commercial committee," to read "through the Commercial Committee."
703	2018	2	Place question mark after "lawyers".
704	2018	22	Change "B exides we had to" to read "But the duties we had".

444
(39)

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
705	2018	23	"business of a more current" should be "were of a more current".
706	2018	25	Change "the specific letter," to "pending matters."
707	2018	27	"Krieger" should be "Krueger".
708	2019	10	"received" should be "receive".
709	2021	1	"Empetret" should be "Aufsichtsrat".
710	2022	18	Change entire line to read "leaders and to help Mr. Waibel. This man was to talk to the Foreign Organization and say: There, you".
711	2027	12	Change "has been a personal opinion of everybody" to read "was pondered by everybody".
712	2027	16	Change "he entangled in a war;" to read "he entangled in a war." changing semi-colon after "war" to period.
713	2027	17	Begin new sentence with "That he would" in the beginning of the line. Change period to comma after "world," continuing sentence with "I believe".
714	2029	7	Change "but in case, as you say, it must have been the case because you have it" to read "but in this case, it must have been the case because you say you have it".
715	2029	19	Delete as repetition "That is, that part of Czechoslovakia?"
716	2031	16	"files" should be "rules".
717	2032	27	Change "In case - I will translate it in English. I would say," to read "In case I were to translate it into English, I would say,".
718	2033	2-3	Use quotation marks in these two lines as follows: "For later employment", yes, "for later" — I am sorry. "To be employed later" or "for later employment."
719	2033	12	Place comma after "Powers." (third word) and after "Powers," (seventh word).
720	2033	30	Insert "we knew" before "that he might".

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
721	2033	31	"by regaining" should be "in regaining".
722	2034	4	Delete comma after "careful" and change following word "but" to "than".
723	2034	5	"This resulted" should be "It resulted".
724	2034	8	"Dr. Fanter" should be "Dr. Fanta".
725	2034	9	"in Fact Dr. Fanter function" should be "in fact Dr. Fanta functioned".
726	2034	12	"complex" should be "complex".
727	2035	16	Delete comma after "desires".
728	2036	21	"the only was" should be "the only way".
729	2037	3	Change "meantime also through" to read "meantime I had also gone through".
730	2037	22	"from you the three" should be "from you about the three".
731	2040	8	"section" should be "action".
732	2041	31	Last three words on page "in that he" should be "and that he".
733	2042	5-6	Change "wanted to have all number at I.G. plants" to "representative of all I.G. plants".
734	2042	7	First word "attend" should be "attended".
735	2043	5	Insert "danger" after first word "great".
736	2043	7	"his worry" should be "his worry".
737	2043	9-10	Delete as repetition "that he actually expressed".
738	2043	20	Add "with the Foreign Organization?" after "history", deleting question mark after "history".
739	2044	2	Insert "Waibel" after "Kommerziar".
740	2044	12	"staffs to work;" should be "staffs work;"
741	2046	7	"I consider" should be "I considered".
742	2053	12	Insert "give," after "read,". Change semi-colon at end of line to comma.

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
743	2054	29	"justifiable" should be "justifiable".
744	2054	30	"that are before us" should be "that is before us."
745	2055	1	"with the defendant" should be "with a defendant".
746	2059	15	"are I.G. Works;" should be "are pure I.G. Works;"
747	2060	3	Change "can only put down part" to read "cannot put down only part".
748	2060	23	"civilian" should be "caustification".
749	2062	3	"it concerned" should be "is concerned".
750	2062	6	"after you list" should be "under your list".
751	2062	8	"caustic soda" should be "caustic soda".
752	2064	22	Change coma to period after "question"... Begin new sentence with "Altogether" and delete semi colon after it.
753	2064	25	"of your is which" should be "of yours in which".
754	2064	29	"that the figures" should be "that in the figures".
755	2065	2	"and after that page 6" should be "and on page 6".
756	2065	17	First word "on" should be "one".
757	2065	28	"at any request" should be "at my request".
758	2066	1	"you opinion" should be "your opinion".
759	2069	25	"to the Party unite;" should be "of the Party unite."
760	2072	9	Delete last word in line "not".
761	2074	18	"NI-9957" should be "NI-7957".
762	2075	3	Change "in the meantime, one could" to "but one could".
763	2075	5-7	Change lines 5, 6, and 7 to read as follows: "This represents only the formal situation. We will occupy ourselves with the material problem later, and now only clarify the formal state of affairs. Therefore, I should".

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
764	2077	3	Place quotation marks after "Committee".
765	2079	13	"NI-0200" should be "NI-9200".
766	2082	22-23	"Book VII" should be "Book XLVII".
767	2082	23	Insert "Document NI-8149" after "850," (placing comma after "850").
768	2084	6	"to the Flatser" should be "to Mr. Flatser".
769	2085	10	Change "of the department head of Berlin" to read "of the meeting of the department heads of Berlin".
770	2087	10	Place quotation marks at the end of line after "Committee."
771	2087	12	"NI-7543" should be "NI-7343".
773	2090	12	Place quotation marks and dash after "Bulletin No." Place dash after "forth," at the end of line.
773	2090	13	Place quotation marks at beginning of line.
774	2091	8	Delete last word "in".
775	2091	17-18	"and a Markt" should be "and Dipl. Ing. Markt,".
776	2093	9-10	Delete "dated 30 May, 1939,".
777	2093	21-28	Place quotation marks before "Discussion" in line 21, and also at end of paragraph.
778	2097	17	"in the English document" should be "in the English document book".
779	2100	7	"NI-7801" should be "NI-7981".
780	2109	20	"XLVI, XLVII, and XLIV" should be "XLVI, XLVIII, and XLIX".

Item No.	Transcript Page	Line	PROPOSED CORRECTION
781	2110	27-28	Insert the following in quotes between lines 27 and 28: "Dear Mr. Reithinger: Sometime ago you expressed to Mr. D. A. Schmitz a desire to be kept informed on technical developments in the United States. From time to time you will receive reports prepared by Mr. E. H. Ludwig on this subject, one of which is enclosed."
782	2111	3	"Judges" should be "Judge's"
783	2111	22-	"878" should be "879".
784	2111	29	"Phenylarsetic" should be "Phenylarsenic"
785	2111	30	"of insecticide" should be "as insecticide"
786	2111	31	"since produce" should be "send the product"
787	2112	21	"U.G." should be "U.S."
788	2113	13	"at time here" should be "at times here"
789	2113	18	First word "out" should be "our"
790	2114	23	"important to the showing" should be "important, the showing"
791	2114	10	First word "questioned" should be "questions"
792	2114	26	Change "utilise secret sources, as well as public sources," to read "utilized public sources, as well as secret sources,"
793	2115	5	"Tischer" should be "Fischer"
794	2115	18	"Saloon" should be "salon"
795	2115	30	"I had made" should be "I have made"
796	2118	2	"importance development" should be "importance to the development"
797	2120	12-13	Delete as repetition from "And transmittal in line 12 through "chancellory," in line 13.
798	2124	23	"Boech states" should be "Schnitzler states"
799	2129	25	"introduce" should be "intricate"
800	2133	2	"117" should be "170"
801	2135	22	"hitherto reports" should be "hitherto reported"
802	2135	31	"0558" should be "NI-10558"
803	2139	25-26	End paragraph with "IA?" In line 25. Delete remainder of line 25 and first two words in line 26. Insert the following:

44
44

Item No.	Transcript Page	Line	PROPOSED CORRECTION
803	2139	25-26 (Continued)	A. Yes. Q. So that I can say that you intend the expression "highest level committee" to mean (Continue with "that you were concerned" in line 26.
804	2139	27	Change semi-colon after "directorate" to period. Change last word in line "the" to "now the", beginning new sentence.
805	2141	1-2	Change period to comma at end of line 1. Continue sentence with "scientists" in line 2.
806	2142	21-22	Insert the following line between lines 21 and 22. "Mr. Sprecher: I have no further questions, your Honor."
807	2146	28	"Verbindungs maenner" should be "Verbindungs-mann"
808	2147	18	Place dash and quotation marks before the last word "and"
809	2148	11	"Southern" should be "Southeastern"
810	2 149	5	Delete entire line as repetition.
811	2152	20-21	Insert the following between lines 20 and 21. "consists of excerpts from a report by Heinrich Homan containing information on relations between the United States and Argentina concerning measures taken to combat the Axis Powers. The Prosecution offers as its Exhibit 908, a document marked NI-9554, which appears on page 33 of the English and page 50 of the German text, and" (Line 21 continues from here. Errata sheet has already been issued for this correction)
812	2152	26-27	Insert the following between lines 26 and 27: "document consists of excerpts from a report by Heinrich Homan and contains information regarding the types of Argentine exports to the United States. The Prosecution offers as its Exhibit 910, a document marked NI-9559, which appears on page 37 of the English and page 56 of the German text. This" (Line 27 continues from here. Errata sheet has already been issued for this correction also).
813	2154	16	"1942 the diplomatic relations" should be "1942 after diplomatic relations".

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
814	2154	18	Delete "and" after "Mexico", Place quotation marks before last word "Verbindungs".
815	2154	30	Change "in Argentina according to the report consisted" to read "In Argentina. According to the report it consisted".
816	2155	12	Change "an itne marked" to read "where it is marked".
817	2155	29	Change "subersion of pre-Allied contried" to read "subversion of pre-Allied countries".
818	2156	28	"to lead itself" should be "to lend itself".
819	2156	31	Change "that is the case in these documents" to read "that is, in the case of these documents".
820	2157	29	Change "Ilgnar's For East Report" to read "Ilgnar further states that Block visited him in 1936 after reading Ilgnar's Far East Report".
821	2159	38	"YOMI" should be "WIPO".
822	2162	16	"To the document EI-914" should be "to Exhibit 914".
823	2164	2	Place quotation marks after "done". Delete quotation marks before "I am".
824	2164	3	Place quotation marks before "through"
825	2164	10	Change comma to period after "now".
826	2164	32	"approa hedus" should be "approached us."
827	2166	14	Place quotation marks before "when" at beginning of line.
828	2166	31	Change "not to transmit" to read "do not transmit".
829	2167	21	First word "on" should be "of".
830	2170	24	Place quotation marks at beginning of paragraph.

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
831	2170	30	Place quotation marks at beginning of paragraph.
832	2172	15	"known at" should be "known as". Delete comma after "Gesellschaft".
833	2172	31	"66" should be "686".
834	2174	6	Place quotation marks before "I should".
835	2175	20	"Iye Committee" should be "Dyestuffs Committee."
836	2175	30	"Herrn Kuenzler and Herrn Puttkamer" should be "Herr Kuenzler and Herr von Puttkamer".
837	2180	2	"in more business", should be "as more business".
838	2193	3	"Count w" should be "Count 2".
839	2195	2	"and I" should be "and myself".
840	2195	20	"Book 38" should be "Book 40".
841	2197	26	Place quotation marks after "find out".
842	2198	24	Insert "is" after "concerned".
843	2198	28	Insert "were" after "Abwehrbeauftragter".
844	2199	2	Place comma at end of line.
845	2199	12	"That are" should be "that these are".
846	2199	28	"I shall with" should be "I shall begin with".
847	2199	31	"you were of" should be "you were one of".
848	2200	4	"deah" should be "head".
849	2200	5	"therefore can" should be "therefore I can".
850	2201	17	"individual within" should be "individual department within".
851	2205	7	"Belegungs planere" should be "Belegungs planene".
852	2206	4	"Banco-neguin" should be "Bancag". next word "There" should be "Then".
853	2206	9	"Barnest" should be "Bancag".
854	2210	13	Change "we saw proof to be shown to" to read "we saw to it that proof was shown to".

44
47

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
855	2214	35	Insert "and" after the first word "affidavit".
856	2215	14	"we would like" should be "but we would like".
857	2217	15	"1925 or 1925" should be "1935 or 1936".
858	2217	22	"at the authorities", should be "under the authorities,".
859	2217	23	Change this entire line to read "in the years after Hitler, that is, after 1933, I really cannot tell you anything".
860	2217	35	"of 1936" should be "around 1936".
861	2217	30	Delete "between" before "Dr. Kuehne".
862	2217	32	Delete "do you know that".
863	2221	28	"What unpleasant did occur?" should be "What unpleasant matters did occur?"
864	2222	2	Place dash between "view" and "was dictated".

444
(48)

Item No.	Transcript Page	Line	PROPOSED CORRECTION
865	2223	8	Delete "its" after "affidavits".
866	2223	10	Please colon after "I quote:" Place quotation marks before "From there".
867	2223	14	Place quotation marks at end of paragraph.
868	2223	15	Insert "(Exh 735, NI-10538)" after "Volume 40"
869	2223	19	Insert "propos" after "carbonyl".
870	2223	22	"Nickel reserve" should be "nickel acid"
871	2223	23-24	Insert the following between lines 23-24: "FITNESS: Nickel reserve. DR. DIX: Here it says "nickel acid". And in the last affidavit: "I know that before the war I was occasionally --"
872	2224	7	Insert "between" after "distinction".
873	2224	9	"their consequences" should be "its consequences".
874	2224	15	"why answered" should be "why he answered".
875	2224	19	"and that expedite" should be "and thus expedite".
876	2225	16	First word "tour" should be "or".
877	2226	1	"(Court)" should be "THE PRESIDENT:"
878	2227	10	Change "I understand it after it has been" to read "I understood it after it had been".
879	2227	16&28	"Mureck, Conrad" should be "Mueller-Conradi".
880	2230	14	"Mueller-Conrad" should be "Mueller-Conradi".
881	2232	13	"I will pass" should be "I will state".
882	2234	31	Insert "and in case" before "it is your desire".
883	2236	28	Change "asstable" to read "as on the non-technical".
884	2239	29	Delete comma after "Professor".
885	2241	30	Change "was examined" to read "was discovered in the course of an experiment".
886	2242	25	"trade hygiene" should be "industrial hygiene".

44
(49)

Item No.	Transcript Page	Line	PROPOSED CORRECTION
887	2246	12	Last two words "in your" should be "if your".
888	2247	8	"wanted have examined" should be "wanted to have examined".
889	2247	10	Delete as repetition "especially in cases where he considered them to".
890	2247	21	Insert the following after "themselves": "through testing and chemical development must establish whether".
891	2247	29	"of all" should be "have".
892	2248	9	Place comma after "date". Change "do you" to "did you".
893	2248	25	Change "reason was secrecy" to read "reason. The other reason was secrecy".
894	2249	21	Change "which in 1943 gave" to read "to which in 1943 we gave".
895	2252	2	Delete first word "that".
896	2256	18-19	Change "was dangerous in laboratory action" to read "was to come into military hands". Change "see to it that such chemical warfare" to read "determine that such chemical warfare agents".
897	2259	9	Change "but on the other that" to read "but on the other hand, it was known to be that".
898	2259	10	Change entire line to read "bad quality of burning, so I turned my attention in both directions."
899	2259	12	"Completely responsible" should be "completely responsive".
900	2260	11	"Now after some" should be "Now after words, did some".
901	2261	4	"Book 20, German page 82." should be "book 20 of the German, page 82."

44
57

Item No.	Transcript Page	Line	Proposed Correction
902	2262	24	Change "lines 8, I told Krauch" to read as follows: line 8, which should read as follows: "I told Krauch"
903	2262	25	Place quotation marks after "planning".
904	2265	3	Change "If you have the opportunity" to read "I think you will shortly have the opportunity."
905	2266	14	Insert "he" after "1936".
906	2268	10	Delete "not" after "Plan".
907	2268	12	"I have no objection," should be "I have an objection."
908	2273	30	"by the Prosecution, Exhibit 682." should be "by the Prosecution as Exhibit 682."
909	2274	31	"and since we are" should be "that since we were."
910	2280	13	Last word "has" should be "had".
911	2283	11	Place single quotation mark before "All selfish interests".
912	2283	12	Delete single quotation mark before "Our whole nation".
913	2289	25	"for Prussia, Dr. Bracht." should be "for Prussia being Dr. Bracht."
914	2290	6	"976" should be "9767,".
915	2291	12	Place quotation marks at beginning of line.
916	2291	13	Place quotation marks at end of paragraph.
917	2294	3	Delete "about" after "gentlemen".
918	2294	30	Last two words "more on", should be "move on."
919	2295	16 & 22	"propound" should be "propound".
920	2297	13	"would have" should be "would he have".
921	2309	15	Delete diagonal and quotation marks before "the tasks".
922	2309	16	Change "listed under No. 3 under 3a 6 it reads" to read "listed under No. 3. Under 3 A 6 it reads".
923	2309	25	Delete quotation marks after "Engagement".
924	2309	26	Place quotation marks after "question" at end of line.
925	2310	5	"is meaning" should be "means".

44
(51)

Item No.	Transcript Page	Line	Proposed Correction
926	2313	5	"past scripta" should be "postulate."
927	2314	2	"When" should be "A". Last word in line "are" should be "is".
928	2314	3	Change "To a corps esprit d'corps." to read "To a corps belongs generally an esprit de corps."
929	2314	10	"considered it" should be "considered the".
930	2318	21	Insert "of the" before "Aktiengesellschaft".
931	2318	25	"in III of I.G.," should be "in Sparte III of I.G.,".
932	2318	26	"head of III," should be "head of Sparte III,".
933	2319	8,9,10	"TA" should be "TEA".
934	2319	28	Change "and what that made DAG" to read "and how the things concerning DAG".
935	2320	25	"to Dr. Paul Mueller" should be "of Dr. Paul Mueller".
936	2324	23 & 29	"TA" should be "TEA".
937	2324	24	Change "not cases of military production but" to read "not to military products but to".
938	2324	27	"Dr. Miller" should be "Dr. Mueller".
939	2324	31	First word "class" should be "Sparte".
940	2325	25	"meetings?" should be "meetings of the Sparten?"
941	2327	10	Change comma to period after "companies". Change "were also concerned" to read "Were there subsidiary companies also concerned".
942	2327	27	Insert "Court" after "Finance".
943	2328	12	"DAG" should be "DAG, etc.,".
944	2331	11	Place period after "moment". Begin new sentence with "Please".
945	2331	14	"war agents" should be "warfare agents".
946	2331	16	"Product" should be "Products".
947	2332	6	Last word "calculation" should be "calculations".
948	2333	1	"with the existing" should be "with the existing factories".
949	2337	21	"Mat, 1938," should be "May 1938,".
950	2338	4	"Orgacit" or "Orgagit" should be "Orgacid".

444
(52)

Item No.	Transcript Page	Line	Proposed Correction
951	2338	7	Change "near E.ailinghausen." to read "near Recklinghausen was chosen."
952	2339	3	"contractional" should be "contractual".
953	2339	8 - 9	Change "assignment which later became Hiels of the Ordnance Office." to read "assignment by the Ordnance Office which later became Hiels."
954	2339	21	"know if" should be "know of".
955	2340	28	Delete second word "werks".
956	2341	19	Delete last word "Wa F".
957	2341	21	Change last two words "research do" to read "research department did".
958	2341	32	Delete entire line and replace with the following: "I know of Dr. Schumann only--"
959	2342	21	Delete quotation marks at beginning of line.
960	2342	22	Delete quotation marks after first word "years".
961	2342	28	"development of research" should be "development and research".
962	2343	14	"Wa Pruef P" should be "Wa Pruef 9".
963	2343	24	Change "Colonel Dr. Chen." to read "A Colonel Dr. Kime or Dr. Schmidt."
964	2343	26	Change "Colonel, Schmidt, Hirsch, Linde, Gebhard," to read "Colonel Schmidt, Colonel Hirsch, von der Linde, Rittler, Gebhard, Ritze,".
965	2343	32	"for ballistics," should be "for the Ballistics Institute."
966	2344	12	"Peenemünde" should be "Peenemunde".
967	2344	13	"Grundstarch G.M., G.H." should be "Grundstuecks GebH."
968	2344	15	"a laboratory" should be "a gas protection laboratory".
969	2345	18	"WA at Spandau," should be "WA Pruef 9 at Spandau,".
970	2346	3	Last word "Spa" should be "Spandau".
971	2348	11	"so correct," should be "is correct,".
972	2348	27	Place comma after "later".
973	2351	8	"Hauptausschuss" should be "Hauptausschuss".
974	2351	16	"be changed in" should be "be changed to".

44
53

Item No.	Transcript Page	Line	Proposed Correction
975	2351	32	Delete quotation marks at beginning of line.
976	2351	33	Delete quotation marks after "Lonal".
977	2352	2	Place quotation marks around the phrase "and perhaps Goldschmidt".
978	2352	3	Delete quotation marks at beginning of line.
979	2352	4	Delete quotation marks after "produced".
980	2352	5	Delete quotation marks at beginning and at end of line 5.
981	2355	9	"question" should be "questions".
982	2357	21	"used his" should be "used its".
983	2358	25	"fiels" should be "fields".
984	2360	29	"the 73," should be "the page 73,".
985	2363	8	Last word "by" should be "of".
986	2366	32	Place quotation marks before "this would".
987	2368	2	"a was" should be "a war".
988	2368	8	Last word "that," should be "the same."
989	2372	1	Delete quotation marks at beginning of line. "Holland Italy" should be "Holland and Italy".
990	2372	4	First word "stand" should be "state".
991	2375	15	Place dash instead of period before quotation marks at end of line 15.
992	2376	17	Place quotation marks after "illusions."
993	2380	1	Delete as repetition "Page 158 of the English,".
994	2383	32	Insert the following with quotation marks before it, before "we would": "In a later discussion, Howard inquired whether, under the present circumstances,"
995	2385	10 - 11	Change "The I.G. indicated that they have not yet to secure the consent" to read "The I.G. representatives could not give me these at the Hague because they had not yet secured the consent".
996	2390	31	"ter Heer an Loehr" should be "ter Meer and Loehr".
997	2392	1	"it should be a" should be "there should be".

44
(54)

Item No.	Transcript Page	Line	Proposed Correction
998	2392	2	Second word "quantity" should be "quantities". "was omitted" should be "which were omitted."
999	2394	3	"is extracts" should be "consisting of extracts".

44
(55)

Item No.	Transcript page	Line(s)	PROPOSED CORRECTION
1000	2400	21	Delete "when I see" in middle of line.
1001	2403	6	Change first word "that" to "what"
1002	2404	3	Change comma to period after second word "law". Delete "which" after "ordinance No. 7".
1003	2404	6	"being free" should be "are free".
1004	2405	11	Delete "which" before "I must admit".
1005	2406	18-19	Change "if it cannot be enacted for convenient reasons if it" to read "if for convincing reasons it".
1006	2406	21	Change "this principle. Of course, in cases" to read "this principle, that, in cases".
1007	2407	8	Change comma to period after "essence". Begin new sentence with "If I understand".
1008	2407	11	Place comma after "witnesses" at end of line.
1009	2409	17-18	"when they arise." should be "when it arises."
1010	2411	13	Change comma to period after first word "examine." Begin new sentence with "That is important".
1011	2411	15	Change comma to period after "brought in." Begin new sentence with "Also". Insert "that" after "mind" and before "we would."
1012	2411	31	Place question mark after "discussed".
1013	2412	2	Place question mark after "effect". Delete comma after "question".
1014	2412	6-7	"inistive" should be "initiative".
1015	2413	8	Place period after first word "defense." Begin new sentence with "Because."
1016	2413	16	Delete comma after "defense counsel".
1017	2413	19	"week end and discuss" should be "weekend to discuss".
1018	2414	15	Add "to" at end of line after "opportunity".

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1019	2413	19	"weekend and discuss" should be "weekend to discuss."
1020	2414	15	Add "to" at end of line after "opportunity."
1021	2414	25	"on question" should be "one question."
1022	2416	10	"was the reason Farben for" should read "was Farben's reason for."
1023	2416	26	"and was was" should be "and it was."
1024	2416	27	"surely after" should be "how shortly after."
1025	2416	31	"to the Farben furnishing" should be "to Farben's furnishing of".
1026	2416	32	Change comma to period after "tetracenes".
1027	2417	10	Delete "and" before "which".
1028	2417	12	Insert "and Remington" after "vestfaelische".
1029	2417	19	"memorandums" should be "memoranda".
1030	2417	20	"or Remington Arms expresses" should be "of Remington Arms express".
1031	2418	15	"asked to object to state" should be "asked me to state".
1032	2418	21-22	Change "his was done already before in Nurnberg in 1947, during this Trial." to read "This was done in Nurnberg, at the end of April 1947 on the occasion of an interrogation on this document through an official of the Prosecution."
1033	2419	8	"first Dr. Silcher" should be "first that Dr. Silcher".
1034	2419	13	Delete "to me" as repetition.
1035	2419	30	"who statement" should be "whose statement".
1036	2421	13	Change "in any way it does not" to read "in order that it may correctly".
1037	2422	15	Place comma after "point out". Change the following words: "I have already asked the Defense Counsel that" to read "as I have already stated to the Defense Counsel, that".

Item No.	Transcript page	Line (s)	PROPOSED CORRECTION
1038	2424	15	Delete quotation marks after "Berge". Change "981" to "1981" and place quotation marks after it.
1039	2426	11	"is the scope" should be "that is the scope".
1040	2426	16	"are a limited feature" should be "are limited features."
1041	2428	7	"simple" should be "simply."
1042	2428	25	Insert "law" before last word "than".
1043	2428	26	"charger" should be "charter".
1044	2428	31	Change last word "operates" to "operated".
1045	2429	15	"appear" should be "appears".
1046	2430	1	"page 9", should be "page 9 of the German,"
1047	2430	11	Change "then, with patents," to read "then patents,".
1048	2430	12-13	Change period after "patents" in line 12 to comma and continue sentence with "at page 11" in line 13.
1049	2430	16	Place quotation marks at beginning of paragraph.
1050	2430	24	Place quotation marks at end of paragraph.
1051	2432	7	Change period after "1938" to comma and continue sentence with "to start".
1052	2432	10	"1949" should be "1939"
1053	2432	14	"page 31," should be "page 31 of the German".
1054	2434	6	Change "I think I'll turn over to page 33," to read "I think rather on page 33,".
1055	2434	7	Change "book. The conclusion" to read "book, is the conclusion".
1056	2434	28	"that they only" should be "that the only".
1057	2434	6	Delete quotation marks at end of paragraph.
1058	2437	5	Change "that the American General" to read "that in regard to the American General".

Item No.	Transcript Page	Line (s)	PROPOSED CORRECTION
1059	2437	19	Last word "is" should be "are".
1060	2438	3	"is the entire" should be "is that the entire".
1061	2438	17-18	"as a natural part" should be "as an integral part".
1062	2438	19	Change "empire. Which was a power and the necessary power" to read "empire, which was a part and the necessary part".
1063	2440	11	Add "of the German," at end of line after "page 70".
1064	2440	27	"page 72," should be "page 72 of the German".
1065	2441	30	"77" should be "77 of the German".
1066	2443	2	Change "Economic--Banking of 11 June" to read "Economic Group Private Banking, Central Association of German Banks and Bankers, of 11 June".
1067	2444	4	Change "that he will" to read "that the Vorstand will".
1068	2444	9	Insert "of the German" after "page 90".
1069	2444	17	Change "this now is a letter" to read "which is a letter".
1070	2444	23	Place quotation marks after "as follows:"
1071	2446	11	Change "is indicating or advising" to read "indicates or advises".
1072	2446	22	Change period to comma after "party".
1073	2447	10	Place quotation marks after "camouflage". Delete quotation marks before the next word "Now".
1074	2447	11	"was later given NI-8646." should be "was later given the number NI-8646".
1075	2447	12	Change "at this point that" to read "in order to point out that".
1076	2447	13	Change "which has been offered in as Exhibit 2652." to read "which is referred to here as NI-2652."
1077	2448	24	"of April 9, 1938." should be "dated April 9, 1938."

44
59

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1078	2448	28	"we met him before" should be "we met before".
1079	2450	15	"set forth" should be "sets forth".
1080	2450	23	Delete "in line".
1081	2450	26	"is set forth" should be "are set forth".
1082	2451	11	Place dash instead of period after "conferences". Do not capitalize next word "we".
1083	2451	12	Place dash instead of period after "conferences". Do not capitalize next word "but".
1084	2451	17	"consequence" should be "inference".
1085	2451	20	"we refer" should be "we referred".
1086	2451	23	Delete "there is".
1087	2451	24	"the same time orders" should be "the same time contains orders".
1088	2451	27	Insert "were" after "dependants".
1089	2451	28	"to carry out" should be "to enable them to carry out".
1090	2452	3	"and you read that in the" should be "and one reads about them in the".
1091	2452	5	Change "that may lead to inferences" to read "and would lead to inferences". Change last word "are" to "should be".
1092	2453	6	"as indicated" should be "to be indicated".
1093	2455	15-16	Delete as repetition "which lay behind the decisions".
1094	2455	19	"Austria" should be "Czechoslovakia".
1095	2455	22	"Whether for good" should be "Whether for better".
1096	2456	6	Delete "it" before last word "is".
1097	2456	29	"further would" should be "further that would".
1098	2456	30	Delete "and" after "argument".
1099	2457	20	Place quotation marks after "2a".
1100	2457	28	"D" should be "f". Place quotation marks before next word "Chemical".

44
(60)

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1101	2457	29	"refers" should be "referred".
1102	2458	15	"from maintenance" should be "and maintenance".
1103	2458	31	Change second word "is" to "us".
1104	2459	6	Change "NI-1747, is already" to "NI-4717, which is already".
1105	2459	21	Change "it speaks about the" to read "again the".
1106	2460	12	"of documents" should be "of the document".
1107	2460	13	"defendent" should be "defendants".
1108	2461	31	Last two words "is as" should be "it as".
1109	2462	11	"these is a plant" should be "these are plants".
1110	2462	12	"put special interest" should be "took special interest".
1111	2463	1	"to that 388 PS" should be "to document 388 PS".
1112	2463	2	"on the 23 of September" should be "that on the 23rd of September". Delete "that" before last word "they".
1113	2463	3	Delete first word "have".
1114	2464	3	Insert "of the German." after "19."
1115	2464	12-13	Delete as repetition "and with the German Economics; with Mr. Keppler, Secretary of State,".
1116	2464	22	Place quotation marks after "concern".
1117	2464	24	Insert "by" before last word "the".
1118	2465	1	Delete first word "and". Begin new sentence with the next word "The".
1119	2465	18	Delete "As".
1120	2465	19	Change comma to period after "834". Change "this is a not" to read "This is a note".
1121	2465	20	Change "it is four days" to "which is four days".
1122	2465	24-25	Change "A few documents, back on 21 September, was the report submitted to the Vorstand of" to read "a few documents back, in

44
(61)

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1122	2465	24-25(cont)	Exhibit 1043, was the report, dated 21 September, submitted to the Vorstand on".
1123	2466	2	Delete "that" before last word "in".
1124	2466	4	"Auxiliary tasks" should be "Relief Fund".
1125	2466	5	Place quotation marks at end of paragraph.
1126	2466	20	"before General Christiansen," should be "to General Christiansen."
1127	2466	21	"Air Corps contributed" should read "Air Corps, a contribution of".
1128	2467	7	Delete "or" in middle of line.
1129	2467	10-11	Change "as to whether or not they were flyers, as to whether or not they were foot troops" to read "in accordance as to whether they were flyers, motorcyclists, or foot troops."
1130	2468	5	Insert "of the German," after "35".
1131	2468	21	"remarks" should be remarked".
1132	2469	10	Add "of the German," after "page 38".
1133	2469	23	"At page 31" should be "At page 131".
1134	2469	26	Add "of the German," after "page 41".
1135	2469	32	Insert "of the German," after "42".
1136	2470	2	Add "of the German," after "43".
1137	2470	11	Place quotation marks after "organizations".
1138	2470	27	Add "of the German," after "46".
1139	2471	1	"you disregard" should be "that you disregard".
1140	2471	31	Insert "of the German," after "60".
1141	2472	1	Second word "will" should be "which". Last word "questions" should be "issues".

Item No.	Transcript page	Line(s)	PROPOSED CORRECTION
1142	2473	11	Change "New Order of General Part for France" to read "New Order, the General Part and the New Order for France,"
1143	2473	23	"of the German", should be "of the German book,".
1144	2473	24	"page 1 of the German, the document itself" should read "page 1 of the German document itself".
1145	2473	25	Insert "of the German book," after "468".
1146	2474	4	Change "which is 470, which is page 3 of the German" to read "which is 470 of the German book and page 3 of the German document".
1147	2474	18	"which the countries" should be "for the countries".
1148	2474	21	Delete quotation marks after "part".
1149	2475	4	"The promise" should be "The promise".
1150	2475	9	Place quotation marks after "reason of". Delete quotation marks before "This is"
1151	2475	10	"the copy I have" should be "the copy Your Honors have".
1152	2476	10-14	Delete from "prayer development" in line 10 through line 14 and replace with the following: "the prayer development trend, it was found with its capacity and its scientific performance not only to keep its clear advantage out to advance even further. The outbreak of the war with all its consequent economic results broke this unequivocal development."
1153	2476	1	"And that that" should be "And with that".
1154	2475	4	Change period to comma after "paying". Continue sentence with "in the middle"
1155	2478	30	Change the following: "Mulhouse" because to to read: "Mülhausen" in order to
1156	2479	1	Change first word "page" to "and".

44
(63)

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1157	2479	12	Change "in France as your Honors" to read "in France, or, as your Honors".
1158	2479	19	Change "to Milhouse that:" to read "to the Mulhouse companies that:".
1159	2479	25	Change first word "that" to "below".
1160	2480	16	Place quotation marks at end of paragraph.
1161	2481	12	Insert "of the original", after "71".
1162	2481	18	Last two words "is, we" should be "is that we".
1163	2482	1	Place comma after first word "original". Delete second word "page".
1164	2483	17	"At 196, which is 594, appears" should be "At page 196, which is 594 of the German appear".
1165	2483	19	Change period to comma after first word "nitrogen".
1166	2483	32	"Terhaar, Feroen's Berlin NY-7," should be "Terhaar of Feroen's Berlin NY-7,"
1167	2484	4	"he given the" should be "he gives the"
1168	2485	19	Insert "of the German," after "70".
1169	2486	6	Insert "of the German," after "75".
1170	2487	2	"NI-10165" should be NI-10164".
1171	2487	4	Delete "to" before "indicate".
1172	2487	6	Place comma after "discussed" and delete following word "and".
1173	2489	17	"has a statement" should be "should present a statement".
1174	2489	18	Change "purpose of it and," to read "purpose of the proof, and,".
1175	2489	19	Add "completed" after "will be" at end of line.
1176	2489	20	"within our timed session." should be "within the time, of this session."

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1177	2496	30	"will not be even be necessary" should be "will not be necessary"
1178	2497	6	"52,53,53,55, and 56" should be "52,53,54,55 and 56".
1179	2498	5	Change "that has to do, quite apart" to "That has relevance quite apart".
1180	2501	26	"to whatever" should be "at whatever".
1181	2503	29	Delete "the" before "duress".
1182	2504	2	Delete "the element of". Add "although" after "defendants" at the end of line.
1183	2504	3-4	Delete "and when it".
1184	2504	9	"property and individual country" should be "prop rty in individual countries".
1185	2507	3	"force prevented" should be "force was prevented."
1186	2507	25	Change "which will not overrun" to read "from overrunning".
1187	2508	3	Delete "that" after "show".
1188	2508	8	Insert "concerning" before "motive".
1189	2509	6	"Government" should be "Governments".
1190	2509	18	"or have been" should be "which are or have been".
1191	2510	19	"1051" should be "1059".
1192	2511	2	"1051" should be "1059".
1193	2512	12	"in agreement" should be "into an agreement".
1194	2513	4	"was negotiating" should be "were negotiating".
1195	2513	22	"could not out" should be "could not buy".
1196	2516	19	Change "invasion immediately after" to "invasion. Immediately after."
1197	2516	26	Insert "of the German," after "63"
1198	2517	2	Insert "State Commissioner for Private Economy" after "appointed".

44
(5)

Item No.	Transcript page	Line(s)	PROPOSED CORRECTION
1199	2518	18	"about it, he talking" should be "about this, he is talking".
1200	2522	1	Insert "of the German," after "77".
1201	2522	16	"with Herr" should be "through Herr".
1202	2523	2	"we lay to crimes" should be "we claim crimes".
1203	2523	6	"he says" should be "and says".
1204	2523	8	Place comma after "attention" and delete next word "to".
1205	2523	9	Insert "to" before "the reference".
1206	2523	10	Change "participated in, as to Austria" to read "participated regarding Austria".
1207	2523	15-16	Place comma after "Hoeffliger" in line 15. Delete "April 19, Hoeffliger is reporting".
1208	2523	23	Place quotation marks before first word "Kuehne".
1209	2524	7	"page 63" should be "page 62".
1210	2524	27-28	Change period to comma at end of line 27. Continue sentence with "in such a way" in line 28.
1211	2525	6	"here is in" should be "here is that in".
1212	2527	18	Change "you will see" at end of line to "that".
1213	2527	27	"Verwaltungsrat, etc." should be "Verwaltungsrat of the Aalinchemie A.G.". .
1214	2528	18	"the next one." should be "the next item."
1215	2528	23	Change "this is a" to read "the index contains a".
1216	2528	27	Insert "of the German." after "131".
1217	2529	1	Delete "and this".
1218	2529	3	Insert "of the German", after "34".
1219	2529	21	Delete comma after "particularly".
1220	2530	3	"after here" should be "after this".

444
(66)

Item No.	Transcript page	Line(s)	PROPOSED CORRECTION
1221	2531	1	Insert "and" before "at the bottom".
1222	2531	2	Insert "states" before "that no action".
1223	2531	5	Insert "of the German" after "135".
1224	2531	10	"Commission" should be "Commis ar ".
1225	2531	14	"Exhibit 1049" should be "Exhibit 1040".
1226	2532	14	Insert "of the German" after "142".
1227	2532	27	Insert "of the German" after "144".
1228	2534	18-19	"NJ Chemical Firm" should be "I.G. Chemical Committee".
1229	2534	25	"on the fact" should be "on the facts".
1230	2535	26	"begin the statement" should be "begin another statement".
1231	2535	30	"up to No. 9" should be "at No. 8."
1232	2535	8	Change "Page 53, if your Honors please, gives" to read "on page 53, if Your Honors please, he gives".
1233	2536	9	"and the next" should be "and in the next".
1234	2536	12	"at this office." should be "at his office."
1235	2536	21	"the German firms" should be "to German firms".
1236	2537	17	Place comma after "unverified" at end of line.
1237	2537	20	"requested him" should be "requested them".
1238	2537	23	"I think though" should be "I think that".
1239	2537	24	Last word "that" should be "since".
1240	2537	26	"it would not bar" should be "this would not bar".
1241	2538	1	Place quotation marks before "According".

44
(67)

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1242	2538	4	Place quotation marks after "participation".
1243	2538	11	"with a private letter" should be "in a private letter".
1244	2541	7	"with the two" should be "via the two".
1245	2541	14	Place quotation marks at beginning of line before "were".
1246	2541	23-25	Delete as repetition lines 23, 24, 25.
1247	2544	14	Insert "for" between "Commissar" and "Private".
1248	2549	3	"eres" should be "easy".
1249	2550	1	Delete "." at beginning of line.
1250	2550	9	Last word "at" should be "of".
1251	2554	23	"last three words" should be "last few words".
1252	2559	20	Change "The point is, I" to read "The point here".
1253	2559	21	Change "being in knowledge here of" to read "being knowledge of".
1254	2559	23	Insert "of the German", after "Page 8".
1255	2550	3	"belonged" should be "belonging".
1256	2550	20-21	Change "was the company is and their physical" to read "the nature of the company and its physical".
1257	2560	22	Place quotation marks before "obscene".
1258	2560	27	"quite" should be "quit".
1259	2562	14	"control of this" should be "control of these plants".
1260	2563	21	First two words "goes to" should be "entered and".
1261	2563	23	Change "Hunich, in and takes" to read "Hunich, I.G. Farben walks in and takes".
1262	2563	23-25	Change sentence beginning with last word "Ye" in line 23 and ending at end of paragraph in line 25, to read as follows:

4/4
(68)

Item No.	Transcript page	Line(s)	PROPOSED CORRECTION
1262	2553	23-26 (con't)	"I would not like to develop this point further, but the significance is that there are preparations for taking over Czechoslovakian industry."
1263	2555	9	"precedence to which I should be precedent for that".
1264	2555	12	Insert "concerning" after third word "and".
1265	2556	13	Delete "concerning".
1266	2556	22	"to read them out." should be "to read them out."
1267	2556	27	Place period after "paragraph" at end of line.
1268	2556	28	First word "Tgis" should be "This".
1269	2557	9	"always for the" should be "always away for the".
1270	2557	11	Delete comma after "please". Place comma at end of line after "Tribunal".
1271	2557	14	"net a burden" should be "net our burden".
1272	2558 2559	29 6	"consider" should be "considered". "continued" should be "contingent".
1273	2559	12	"Then can be taken" should be "That can be taken".
1274	2559	15	"of the evidences" should be "with the evidence".
1275	2558	30	"Tribunal being called" should be "Tribunal be called".
1276	2570	3	Delete "of" after "value".
1277	2570	16	Change first two words "it is" to "which make it".
1278	2571	3	Last two words "of who" should be "of judges who".
1279	2572	13	"as I'm humanly" should be "as it is humanly".
1280	2573	13	Change "at the preceding" to read "as indicated on the preceding".
1281	2573	15	"on the next page", should be "on page 23".
1282	2573	17-18	"those entire minutes of those meetings" should be "the entire minutes of that meeting".

44
69

Item No.	Transcript page	Line(s)	PROPOSED CORRECTION
1283	2573	25	Insert "of the German," after "41".
1284	2577	7	"Bruchna" should be "Brunner".
1285	2578	4	"NI-; 0531" should be "NI-10581".
1285	2578	28	"indicating" should be "indicate".
1287	2588	4	"as the so-called" should be "is the so-called".
1288	2588	9	"de jour" should be "de jure".
1289	2589	25	Delete "were" after "conditions".
1290	2589	27	Insert "basis" after second word "legal".
1291	2590	3	Place period after "upon you". Begin new sentence with "Counsel".
1292	2590	10	Change semicolon to comma after "out".
1293	2590	11	Place comma after "trustees".
1294	2591	5	"The next document" should be "The next documents". "the other" should be "otherwise".
1295	2592	9	"in permissible" should be "impermissible".
1296	2592	27	"and made certain persons," should be "by certain persons".
1297	2593	7	Add "is" after "out" at end of line.
1298	2593	8-9	"as interpretation" should be "an interpretation".
1299	2593	13	"basis" should be "basic".
1300	2593	26	Change "in the press as to" to read "as a precedent for".
1301	2594	1	"RTO" should be "HTO".
1302	2596	27	"RTO" should be "HTO".
1303	2597	2	"want them as" should be "want this".
1304	2600	7	Last word "paid" should be "made".
1305	2600	8	Change period after "Dr. Pohland" to comma. Place comma after "Dr. Furster".
1306	2600	10	Change "to question once Dr. Pohland" to read "to bring up the question of Dr. Pohland".

44
(79)

Item No.	Transcript page	Line(s)	PROPOSED CORRECTION
1307	2600	12	"official cart" should be "official chart".
1308	2600	15	Delete last word "only".
1309	2600	26	Change comma to period after "report". Begin new sentence with "you might".
1310	2601	1	Insert "regarding" after "connection".
1311	2601	16	Delete "with" after "contact".
1312	2602	15	"the Jews" should be "the Jew".
1313	2602	17	"indicating" should be "indicated".
1314	2602	23	"then, the" should be "than".
1315	2602	31	"to these defendants" should be "then these defendants".
1316	2605	1	"of Vurster's" should be "of VOVI".
1317	2605	10	Change period after "Poland" to comma. Continue sentence with next word "all".
1318	2605	11	Change "the last. Two and three" to read "the last two or three".
1319	2607	12	"customary us" should be "customary use".
1320	2609	6	"Gunny" should be "dummy".
1321	2609	8	"sopfistry" should be "sophistry".
1322	2609	12	Delete "quote".
1323	2609	15	Change "production, would continue" to read "production, would have to be closed down. The Berute, on the other hand, should continue".
1324	2609	18-19	"important German Economy," should be "importance to the German Economy".
1325	2611	27	Delete first word "in".
1326	2612	5	"You will not" should be "You will note,"
1327	2615	5	Place comma after second word "group".
1328	2615	15	Last word "or" should be "to".
1329	2615	22	"to ask it in" should be "to put it in".
1330	2615	23	"If you will not" should be "If you will note".

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1331	2621	16	"Schoilfogel's" should be "Schwab's".
1332	2622	9	Delete first two words "the series".
1333	2622	23	"I am going" should be "I am not going".
1334	2623	31	"ush" should be "such".
1335	2626	2	Delete second word "in".
1336	2626	3	"deal" should be "deals".
1337	2626	3	Second word "Document" should be "Exhibit".
1338	2628	22	"addition" should be "additional".
1339	2630	24	Last three words "that is one" should be "on one".
1340	2631	10	First word "man" should be "men".
1341	2633	23	"they had to be cured" should be "he had to be cured".
1342	2633	24	Second word "give" should be "grave".
1343	2641	30	Last three words "what you are" should be "which you are".
1344	2644	3	Delete "up to the year".
1345	2644	7	"concept" should be "consumption".
1346	2644	21	"their requirements" should be "its requirements".
1347	2644	21-22	Insert between lines 21 and 22 as part of preceding question the following "Is there not such a provision?"
1348	2644	22	Place "A" before this line and dash instead of period after "then" at the end. (This is the beginning of the intended answer of the witness).
1349	2644	32	Add "state" after "you" at end of line.
1350	2647	28	"to confirm" should be "to confirm them".
1351	2652	9	Change fourth word "and" to "since".
1352	2650	14	Change "Well, of course" to read "The others have certified there- to also."

Item No.	Transcript page	Line(s)	PROPOSED CORRECTION
1353	2560	15	Delete "The others have certified thereto."
1354	2563	19	"Wirtschaftsfuehrungs" should be "Leadership".
1355	2569	3	"Day Haas" should be "De Haas".
1356	2569	9	"under an operational company" should be "under operational companies of".
1357	2569	18	"SaHa as" should be "De Haas"
1358	2570	7-8	Delete both lines
1359	2570	10	Place comma after "experts" at end of line.
1360	2571	12	Change "quoting page 7 of the original" to read: just above "page 7 of the the original".
1361	2571	26	Delete semicolon after first word "back".
1362	2572	22	"NI B-77" should be "NI 8077".
1363	2573	23	"and so," should be "and so on;"
1364	2573	25	"it is ready" should be "itself".
1365	2573	30	Change "to put in their mouth" to read "to place on them"
1366	2575	15	Delete "and quote".
1367	2577	10-11	Change "and this proposes a company in between the synthetic rubber company East." to read: "on the one hand, and Farben and the Synthetic Rubber Company East, on the other."
1368	2577	21	"that spoliation" should be "of spoliation".
1369	2577	27	Change "their having too much interference between" to read "their having not too much interference through".
1370	2577	29	"any less by virtue" should be "any loss by virtue".
1371	2577	30	"corporation" should be "cooperation".
1372	2578	7	Last word "as" should be "was".

44
73

Item No.	Transcript Page	Time(s)	PROPOSED CORRECTION
1373	2682	11	Replace "they" by "it".
1374	2684	8	Place comma after "KLN" and change "strategically important war plants;" to "that is, war important and vital plants;"
1375	2684	13	Change "strategically and vital plants?" to "war important and vital plants?"
1376	2684	20	Change "KL" to "KLN".
1377	2684	21	Change "That is and vital strategic plants?" to read "That is important as war important and vital plants?"
1378	2684	28/29	Change "the armament and strategically important plants," to read, "the war important and vital plants,".
1379	2687	23	Change "plants" to "plans".
1380	2689	26	Change "face" to "fact".
1381	2689	29/30	Delete "which has been translated by 'readiness plant', 'stand-by plant'".
1382	2690	23	Change "objectionability" to "unobjectionability".
1383	2696	29	Change "medictiony" to "mediatory".
1384	2697	22	"No. 3-D" should be "No. 5-D".
1385	2698	4/5	Insert between lines 4 and 5: <p style="margin-left: 40px;">"Dr. VON ROSPATT: It is page 3 of the Original, Number 5-D. THE PRESIDENT: Yes, it is at the end of the page."</p>
1386	2698	18	Insert "but" between "all" and "only".
1387	2698	20	Change "places of" to "plans for".
1388	2705	19	Delete as repetition "in the office which he was in charge of remained secret".

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1389	2707	21	Delete "in Mess".
1390	2707	21	Change "capacity" to "from imprisonment".
1391	2707	29	Change comma to semi-colon after "I.G. Works".
1392	2706	24	Change "approached I.G.," to "the I.G.".
1393	2706	25	Change "on" to "in". Delete "i a" and place quotation marks before "Professor Hoerlein...".
1394	2710	4	"I added these words" should be "I changed these last words to".
1395	2710	16	Change "the explanation" to "an explanation for the words" and delete comma at end of line.
1396	2710	17	Change comma to colon after "of the examination". Place quotation marks before "that is,".
1397	2710	19	Place quotation marks after "for I.G." at end of paragraph.
1398	2710	21	Insert "which" after "experiments".
1399	2711	8	Place quotation marks around "Tabun".
1400	2711	15	Delete quotation marks after "tests" and before "on animals".
1401	2711	21	Change "on the latter worked there, it should say," to read "only the latter worked there, and it should say,".
1402	2711	27	Change "Under 10, that" to "Paragraph 10, which".
1403	2711	32	Change "by the latter be used" to read "by him could be used".

44
75

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1404	2712	1	Delete comma after "discovered".
1405	2712	2	Delete first word "was".
1406	2712	16	Delete last word "after".
1407	2720	8	Change comma to period after first word "not". Delete "whether that" and start next sentence with "As far".
1408	2720	19	Change "when" to "whom".
1409	2723	14	"acciditonal" should be "additional".
1410	2727	11/12	Delete "--which as I say were concluded--".
1411	2734	2	Change "Underneath" to "Under".
1412	2734	15	"was to put at" should be "was to be put at".
1413	2738	18	Insert "Germany" before "which" at end of line.
1414	2738	26	Change "the vital" to "of vital".
1415	2741	13	Place quotation marks after "floor".
1416	2741	14	Place quotation marks before "are ready".
1417	2742	11	Change "quote" to "quite".
1418	2744	6	Change "document 1200" to "Exhibit 1200".
1419	2744	8	Place comma after "only".
1420	2744	32	Change "Document 1202" to "Exhibit 1202". Delete rest of line.
1421	2745	1	Place "id" before "10163" at beginning of line.
1422	2745	4	Change "disclose" to "dispose".
1423	2745	11	Change "of the majority" to "by which the majority". Add the word "be" after "could" at end of line.

44
76

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1424	2745	12	Change "change by way of increasing its capital stock, the 43 per cent" to read "changed through increasing the capital stock, whereby the 43 per cent".
1425	2745	30	Change "point out as follows, -- and then" to read: point out the "as follows" -- and that.
1426	2746	13	Delete last word of paragraph "later".
1427	2746	27	Place quotation marks at end of paragraph.
1428	2748	16	Place comma after "before us".
1429	2748	17	Place comma after "before us".
1430	2748	29	"dreeting" should be "creating".
1431	2749	8	Place quotation marks after "Viag". Insert "(Vereinigte Industriegesellschaft)" after "Corporation".
1432	2749	9	Delete "(vereinigte Industriegesellschaften) or".
1433	2749	10	Insert "or" before "Poisoning". Delete parenthesis at end of line.
1434	2749	18	Change "accused" to "accrued".
1435	2749	20	Place comma after "75". - Change "that" to "which".
1436	2749	23	Insert "of" between "because" and "the 31st".
1437	2750	6	Change last word "Aero" to "by us" and add quotation marks and dash.
1438	2750	7	Change "Bank, that is a German Reich Agency by us on behalf" to read as follows: that is, the Aero Bank, a German Reich Agency - "on behalf

444
77

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1439	2750	13	Place comma after "Paris".
1440	2750	14	Place quotation marks and period after "order".
1441	2750	23	Insert "to interested" after first word "right".
1442	2750	27/28	Delete lines 27 and 28.
1443	2750	31	Delete quotation marks after "Treuhandgesellschaft".
1444	2751	3	Change "55%" to "53%".
1445	2751	19	Place quotation marks before "why the French".
1446	2752	8	Place comma after "affidavit," and insert "HI-6348" after it.
1447	2752	11	Change "HI" to "Exhibit".
1448	2753	6	Delete "and".
1449	2753	10	Place comma after "book" and insert "Page" between "book" and "100".
1450	2754	3	Place comma after "in it".
1451	2754	7	"None of the aspects" should be "none of these aspects". Delete the following words "of that".
1452	2754	14	Change "document which" to "doctrine which". Delete "as" before "was added".
1453	2754	16	Put comma after "document", and insert "that is," between "document" and "if it would". Change "our views" to "the rule". Add comma at end of line.
1454	2754	25	Place quotation marks before "Read and approved".
1455	2754	26	Add quotation marks at end of paragraph.

44
78

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1456	2755	9	Change the following: located in this area were the dyestuff plants," to read: located there" - among which were the dyestuff and oxygen plants.
1457	2755	10	Change "and they are" to "The first is".
1458	2755	11	Delete quotation marks before "Among" and delete last word of line.
1459	2755	13	Place quotation marks before "Farbon", "acquires" should be "acquired".
1460	2755	15	Place quotation marks after "owners".
1461	2755	18	Change "that in seizing" to "for the seizure of".
1462	2755	19	Change comma to period after "territories". Begin new sentence with "Knowledge".
1463	2755	21	"he states" should be "it states", "seized" should read "seizes".
1464	2756	12	Change "claim" to "seizure".
1465	2756	13	"they participated" should be "Farbon participated".
1466	2756	21	"as to these documents;" should be "in these documents;".
1467	2757	2	"seized" should read "seizes".
1468	2757	4	"So long as" should be "Not as long as". Place period at end of line.
1469	2757	5	Delete first word "and" and start new sentence with "The IMT". Insert "that" before "so long".
1470	2757	7	Insert "this" between "within" and "limitation".

4/4
(79)

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1471	2757	31	Insert "of" between "because" and "the first proposition".
1472	2758	1	Insert "and" between "Convention," and "a participation". Change last word "of" to "by".
1473	2758	6	Insert "towards" between "because" and "an aggressive war".
1474	2758	8	"attached" should read "attacked".
1475	2759	7	Change "but there" to "and here".
1476	2759	12	Change comma after "nationals" to semi-colon.
1477	2759	13	Change "There" to "That".
1478	2759	14	"there defendants" should be "these defendants". Change "originally" to "aggressively".
1479	2759	22	Change sentence "I have understood your statement correctly " to read: "If I have understood their statement correctly, their knowledge came in this way."
1480	2759	23	"preessages" should read "passages".
1481	2759	30	Change comma to colon after "it" and delete last word "is".
1482	2760	1	Delete "or belligerency".
1483	2760	8	Change "as far as" to "since".
1484	2760	10	Change comma to period after "IMT" and start new sentence with "They".
1485	2760	11	Insert "that" before "having".
1486	2760	13	Change "having been" to "being". Add comma at end of line.
1487	2760	14	Delete first word "then".
1488	2760	15	Place comma after "IMT".

44
(80)

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1489	2761	21	"will mention" should be "I will mention".
1490	2761	24	Change "January" to "July".
1491	2761	25	"of this decree" should be "of presenting this decree". Delete "that" before last word "with".
1492	2761	26	Delete "you will see".
1493	2761	30	"with that respect" should be "in that respect".
1494	2762	19	Change "limitations" to "recommendations".
1495	2762	20	Delete quotation marks after "firms".
1496	2762	23	Delete "that".
1497	2762	29	Change "French" to "German".
1498	2763	16	"Nowack" should read "Wosack".
1499	2767	30	Change "raise" to "remove".
1500	2770	19	Insert "to have it" between "cross-examination" and "elsewhere".
1501	2770	25	Change "concerning" to "claiming".
1502	2773	32	"At that time" should be "And that time". Change last word "note" to "remember".
1503	2781	9	Change "is considering" to "concerns".
1504	2781	14	"South-European" should read "South-East Europe".
1505	2783	5	Delete quotation marks after "preference".
1506	2785	20	"with respect to occupied France" should be "for occupied France".
1507	2786	7	Place quotation marks after "advised of I.G.'s application".
1508	2786	8	Place quotation marks at beginning of line.

444
(81)

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1509	2786	14	"Dr. Hard" should read "Dr. Bard".
1510	2786	26	Insert "present" between "were" and "variously".
1511	2786	30	Insert "that" between "stressed" and "the pressure".
1512	2787	18	"this affidavit" should be "the skipped affidavit".
1513	2790	8	Place comma after "49" and delete next word "to". - Also delete "again".
1514	2790	9	Place quotation marks before "the whole"
1515	2790	10	Place quotation marks after "Committee".
1516	2791	13	Change "hospital" to "proposed".
1517	2791	17	Change "Francolor" to "Rhône-Poulenc".
1518	2791	24	Place quotation marks after "whereby it is agreed".
1519	2791	25	Place dash and quotation marks before "that concerning".
1520	2791	26	Insert "just" between "should" and "wait".
1521	2792	4	"weaking" should read "weakening".
1522	2794	9	Change "91" to "81".
1523	2795	6	Place quotation marks before last word "fail".
1524	2795	7	Change "and their" to "under the".
1525	2795	8	"would" should read "could". Place quotation marks at end of paragraph.
1526	2797	28	Delete "bon" before "Kugler".
1527	2798	7	Insert "is" between "Order" and "constantly".
1528	2799	15	Change "prosperous" to "prostrate".
1529	2801	19	Insert "as well as Farben's Waibel" between "Ambros" and "were".

4/4
(22)

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1530	2801	20	Insert "of the German Group" between "representatives" and "on the council"
1531	2801	32	Delete first word "that".
1532	2803	10	Place comma after "agreement".
1533	2803	21	Delete "to" after "go over".
1534	2807	25	Change "exception" to "except in".
1535	2811		Correct pagination: "8211" must read "2811".
1536	2813	15	Change "2 51 g" to "a 51g".
1537	2815	2	Place quotation marks before "the trademark" and delete "is".
1538	2815	5	Change "objections" to "suggestions"
1539	2815	15	"The German Part" should read "The General Part".
1540	2816	20	Change "Blaise" to "Grillet".
1541	2815	9	Place comma after "document," and insert "HI-792" after it.
1542	2820	13	Change "Rhono-Paulenc's" to "Pauro-Bemulien's".
1543	2820	22	Change "Dr. Revy" to "Dr. Redies".
1544	2820	24	Change "he remarks on the patentability on" to read "the remarks on the patentability of".
1545	2822	30	Change "contained" to "confined".
1546	2823	11	"The Special Company" should be "The Specia Company".
1547	2823	12	"good aspirino" should be "word aspirino".
1548	2823	13	Change "for example" to "that is,".
1549	2823	24	Place quotation marks at beginning of line and change "contracted" to "contacted".

44
83

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1550	2823	26	Add "the" after "to be" at end of line.
1551	2824	23	Place quotation marks at beginning of paragraph.
1552	2824	27	Delete "it" after "submit".
1553	2825	2	"comprehensive" should read "comprehensible".
1554	2825	6	Change first word "Schnitzler" to "Schnitz".
1555	2825	9	Change first word "Bayer" to "Rhono-Poulenc".
1556	2825	11	"attitude is" should be "attitude as".
1557	2825	13	Change "phrase" to "sentence".
1558	2826	9	Change "Your Honors, we note" to "Your Honors will note".
1559	2826	12	Change "being" to "is".
1560	2826	14	"the spoke" should read "they spoke".
1561	2828	12	Change first two words "to which" to "to wit".
1562	2837	9	"for his intentions" should be "for the intentions".
1563	2841	26	Change "very little. What did you understand by this?" to read "very little, and I must in some form bring out what one should understand by this."
1564	2842	2	Change "may I note" to "I may".
1565	2844	17	Change "when the" to "till the".
1566	2849	6	"I see" should read "I saw".
1567	2855	13	Place period after "information" (word next to the last of line).
1568	2856	17	Change comma to semi-colon before last word in line.
1569	2860	29	Change "exhibit 41" to "Exhibit 841".

444
84

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1570	2863	4-5	Place comma after "Office". Change "organization of Germans abroad" to "Foreign Organization (Auslands-organization) of the NSDAP."
1571	2863	7	Change "organization of Germans abroad" to "Foreign Organization".
1572	2863	19	Delete "s" of "organizations", last word in line.
1573	2867	2	"dearly" should be "clearly".
1574	2867	9	"analysis" should be "analysts".
1575	2867	22	Insert "necessary" between "feel" and "because".
1576	2868	18	Delete last word of line as repetition.
1577	2869	25	"are not in evidence" should be "are clearly in evidence".
1578	2870	15	Add "before," at end of line.
1579	2871	5	"correct" should be "correctly".
1580	2872	3	Change "10064" to "1064". Delete comma after "also".
1581	2874	13	Delete "I reported him on the situation (not in the German)."
1582	2875	1	Change "German" to "European" (twice).
1583	2875	3	Insert "Economic" between "European" and "Conference".
1584	2877	24	Delete first word of line "there".
1585	2880	29	Delete the word "it,".
1586	2882	8	Change "If I state this, I did it once" to read "If I stated this, I did so".
1587	2882	31	Insert "Dr. Ahlemann," after "friend".
1588	2883	3	Complete answer should be as follows: "A. I never asked anybody to have a duel with me. But I would like to make the remark that I learned later that Dr. Ahlemann wanted me to be asked if that played a role here at all."
1589	2883	17	Insert "and" after "danger".
1590	2884	1	Insert "who" after "military men".
1591	2884	6	Change "but" to "while". Delete "while they".
1592	2884	25	Change first word "being" to "and was".

44
85

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1593	2885	2	Change "of the Kapp-Putsch?" to read "of von Kapp in the Kapp Putsch?"
1594	2885	7-8	Change "coup d'etat and Kapp Putsch was combatted" to read "suppression of the Kapp Putsch".
1595	2885	22	Change "and indicted there where he describes" to read "and there he has described".
1596	2885	27	Change comma to period after "it". Start new sentence with "From".
1597	2885	29	Insert "the name of which I cannot now remember," after "function". Place comma after "function".
1598	2885	31	Change "of Economics. Then Herr von der Heyde" to read "of Economics, and with these offices Herr von der Heyde".
1599	2890	1	Insert "not" after first word "must".
1600	2890	9	Delete "which".
1601	2890	30	"is not evidence." should be "as evidence."
1602	2892	33	Delete "to" after "attack".
1603	2893	1	Place "to" at beginning of line.
1604	2895	3	"Sub-Division 1," should be "Sub-Division i,".
1605	2900	14	Delete first word of line "regarding".
1606	2901	28	"this is nothing" should be "there is nothing".
1607	2903	22	Insert "is that" after first word "Tribunal".
1608	2903	24	Insert "and are" before "not withdrawn" at end of line.
1609	2905	26	Place comma after "reason".
1610	2905	27	"double taxation" should be "double taxation was not involved,".
1611	2905	31	Change "which this witness could not elicit" to read "in which we did not elicit".
1612	2907	17	"which camouflage" should be "for camouflage".
1613	"	31	"and the occasion" should be "on the occasion".

44
86

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1614	2906	1	"of British India" should be "of sales organizations in British India."
1615	2906	11	Change "that is when it appeared," to "then when it was."
1616	2906	14	Change "was" to "were" after "In this".
1617	2906	15	Change "that is my client," to "and among them my client,".
1618	2906	22	Change "work" to "word".
1619	2906	28	Delete "it was" after "because".
1620	2906	29	Change "war caused" to "worsened and war was feared".
1621	2909	11	Insert "that" after "eventuality".
1622	2909	21-22	Change sentence starting "It would be..." to read as follows: "Figuratively, the comparison would be very appropriate since it was not only a safety measure but some kind of insurance against the risk of war."
1623	2909	37-28	Change "to insure against the threat of war in all kinds of business which took a longer time." to read "to insure, against the threat of war, all kinds of transactions involving considerable time."
1624	2909	31	Delete "was", second word in line.
1625	2910	6	Change "party officers of NSDAP." to read "part of the officers of NSDAP."
1626	2910	8	Change "that is also my client" to "and also my client,".
1627	2910	31	Change "some of the planners for an aggressive war was convinced" to read "anyone who plans an aggressive war is convinced".
1628	2911	21	"than Germany" should be "in Germany".
1629	2911	25	"in great deal" should be "in great detail".
1630	2911	30	Insert "were" after "taken", first word in line.
1631	2912	9	"for Farben" should be "and Farben".
1632	2912	10	Delete first two words "of it".

44
87

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1633	2915	13-14	Change from "to have" in line 13 through "German Reich." in line 14 to read as follows: to have these dyestuffs plants got into the influence of enterprises which had nothing to do with I.G. and thus create an extraneous nucleus within the combined German economic sphere of I.G."
1634	2917	24	Change last word "their" to "its".
1635	2924	23	Insert "as an approval" after "construed" and delete same phrase after "committee".
1636	2924	25	Change last word "them" to "it".
1637	2925	6	Place comma after "expedient".
1638	2927	3	Change "to come" to "of coming"
1639	2928	15-16	"to protect it from" should be "for protection from".
1640	2928	21	"for rest" should be "for the rest,".
1641	2931	16	Delete last word "was".
1642	2933	13-13	"customers" should be "customer". Change "a Farben product" to "Farben products".
1643	2933	20	Change "camouflaging measures" to "camouflaged".
1644	2933	27	Insert "if" between "ago" and "you know".
1645	2938	31	Change "drafts two weeks after it broke out." to read "drafts about two weeks after the war broke out."
1646	2939	7	Change "of work which was carried out by the VOWI for GEW" to read "of work of the VOWI which was drafted by the Economic Armament Staff of the GEW"
1647	2945	23	Change "may have thought they were" to "they thought were".
1648	2947	24	Insert "as" after "summarize".
1649	2947	26	Place comma after "enterprises".
1650	2948	12	"positions" should be "points".
1651	2948	14	As above.
1652	2949	26	"circles as internationals" should be "circles considered and designated as international".

444
88

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1653	2949	27	Change "lie" to "censure".
1654	2950	9	Delete "because" and insert "which one always heard, that" between "words," and "this edifice".
1655	2951	12	Change "client" to "elicit".
1656	2954	16	"and the time before" should be "and that even in the time before".
1657	2954	26	"to establish" should be "was to establish".
1658	2954	30	Complete question begun in this line by "such a possibility for an understanding? Would you say that?"
1659	2954	31	Delete letters "ity". Start new paragraph and answer with "A. I would say that that was one.".
1660	2955	2	Change period to comma after "Ilgnor,". Continue sentence with "to serve".
1661	2955	31	Change "that we have experienced" to "what we all have experienced at". Place period at end of line. Begin new sentence with "Do you" in next line.
1662	2957	13	Insert "the" between "ention" and "idealistic".
1663	2957	31	Change "but I am" to "and I am".

Item No.	Transcript Page	Line (s)	PROPOSED CORRECTION
1664	2963	14	Change "falschheit" to "aforesaid".
1665	2963	22	"commissal" should be "commission".
1666	2963	29	Insert "that" after "alloging".
1667	2964	11	Change "effect punishable to commit" to read "effect a punishable conspiracy to commit".
1668	2964	25-26	Change the sentence "As resultsthis trial". to read "The Prosecution in the III Trial in a similar way put in this accusation."
1669	2965	3-4	Delete "In the Opinion". Start new sentence with "It says:" in next line.
1670	2967	Title	"GUSTAV KRUEGER" should be "KURT KRUEGER".
1671	2967	7	"1939" should be "1933".
1672	2969	14	Insert "and" after "called".
1673	2969	20	Change period to comma after "Austria". Change "on the Wachen question" to read "talking with him about Wachen".
1674	2970	17-18	Change "to see that if the majority" to read "to see, as the majority".
1675	2970	25	Delete question marks at end of paragraph.
1676	2971	7	Place quotation marks at end of paragraph.
1677	2971	11	Change "howling with the great." to read "howling with the wolves."
1678	2972	21	Change "that you had" to read "it was".
1679	2972	30	Delete question mark and insert "by mention- ing" after "support", continuing the sentence with "the National".
1680	2972	31	Place question mark after "New-York". Begin new sentence with next word "was" and change following word "at" to "that".
1681	2973	31	Change "this question" to read "these details"
1682	2974	9	Change "keeping" to "to keep"
1683	2974	16	"wule" should be "role"

4/4
90

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1684	2976	11-12	Change the part of the sentence "I took the idea to it," to read "I took the idea up — I could not actually promise it —",
1685	2979	1	Place comma after "abroad" and after "activity".
1686	2979	16	Change "the time which" to "the same time when".
1687	2979	17	Delete "that he".
1688	2981	3	Change "there is nothing to be said" to "there was nothing said".
1689	2981	9-10	Change "that was a principle that if" to "that was the principle. If".
1690	2981	17-18-	Delete sentence "And what were the courses of this corporation?".
1691	2981	23-24	Change from "as the Minister" in line 23 to "asked me" in line 24 to read "and to apply to the Minister of Economics, and give the reasons. From a certain time the Economic Ministry, as the control of the A.O. was in its hands, asked me".
1692	2982	7	"corporation" should be "cooperation".
1693	2982	25	Add "say was" at end of line after "which you".
1694	2984		Correct pagination from "2934" to "2984".
1695	2985	1	Change "would be committed" to "was committed".
1696	2985	13	"it was a policy" should read "this was the policy".
1697	2986	10	Change period to comma after "works".
1698	2986	14-15	Change from "or perhaps it seems a bit" to "this had been put" to read "what made me wonder or perhaps seemed a bit strange to me, and was put".
1699	2986	16	Place "was that" at beginning of line before "when the acquisition".

Item No.	Transcript Page	Line (s)	PROPOSED CORRECTION
1700	2986	25	Change semi-colon to comma after "enterprises".
1701	2991	16	"point M" should be "point 4".
1702	2992	30	Insert "decided for" after "the EA also".
1703	2992	31	Change last part of line starting "the press office ..." to read "the press office was to be under Dr. Brettnor, and where the".
1704	2993	6	Delete last three words "calculated to be".
1705	3010	18	First word of line "present" should be "represent".
1706	3015	16-17-19	"the Nazi" should be "the Nazis".
1707	3016	7	Place quotation marks before "I hate" and after "nations" at end of line.
1708	3016	3-9-10	Change from "the Germans inethis" to "whether the Fatherland" to read "the Germans, how far they go when their loyalty to their Fatherland is demanded without being convinced as to whether the Fatherland".
1709	3022	27	Place quotation marks at end of paragraph.
1710	3023	17	"797" should be "779"
1711	3027	23	Delete " 'to hunt with the hounds' or, as you put it, ".
1712	3029	8	Delete comma at end of line after "reaction".
1713	3029	9	Place comma after "workere".
1714	3031	12	Change "NI-9720 to read "NI-9620".
1715	3036	1	Insert "there" after first word in line "that".
1716	3041	13-14	Between lines 13 and 14, insert the following: Mr. SPEICHER: NI-9776. THE PRESIDENT: Thank you.
1717	3041	15	Delete "Thank you".
1718	3043	20	Insert "of Bayer abroad" after "representations".

4/4
(92)

Item No.	Transcript Page	Line (s)	PROPOSED CORRECTION
1719	3043	27	"I was told to list those" should be "I was told to list them."
1720	3043	27-28	Between lines 27 and 28, insert the following: Q. Did you list them? A. Yes, from records.
1721	3043	29	Change "They are included." to read "As far as any payments were made, they are included."
1722	3044	2	Change "in political" to "non-political"
1723	3044	17-18-19	Change lines 17, 18, 19, to read as follows: A.- There would be left very little. Q.- Excuse me, I did not understand you. A.- There are not very many political payments here.
1724	3048	11	Change "have actually" to "have not actually".
1725	3049	17	Change "and he makes" to "where he makes".
1726	3053	14	"was not quite correct?" should be "is not quite correct?"
1727	3056	12	Delete "in" at end of line after "to be".
1728	3059	8	Delete "which" after "maps".
1729	3059	30	Change "principally" to "the principal"
1730	3061	23	Delete first word in line "for".
1731	3063	7	Add "on the part of" at end of line after "since".
1732	3063	8	Change last two words "had been" to "it was"
1733	3064	9	Change "metal company" to "Metallgesellschaft".
1734	3066	20	First two words "put on" should be "put in".
1735	3072	2-3	Insert "some report" after "other reason" in line 2, and delete it in line 3.
1736	3079	12	"Siegestheim" should be "Schiltigheim".

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1737	3064	5	Correct number of Exhibit is "1235".
1738	3090	9	Place period instead of question mark after "Baroen".
1739	3092 & ff.	13 & ff.	"Coyka" or "Celka" should be "Cejka".
1740	3092	26-28	"Conficencial" should be "confidential"
1741	3092	30	"conficence" should be "confidence"
1742	3095	3-4	Delete "as an agency of Rust".
1743	3095	12	Change "Jetrills" to "details".
1744	3095	22	Last two words "more details." should be "only details."
1745	3096	3 & ff.	"metal plant", "metal works", "metal enterprise", etc., should all be "Metallgesellschaft".
1746	3097	26	Change from "in particular" to "the affairs in Norway" to read "in particular urged the representative of the Reich to have the affairs in Norway".
1747	3099	8	Change "should take" to "which was to take".
1748	3099	9	Delete comma and place a dash after "Easter".
1749	3100	12	Insert "the" between "know" and "ratio".
1750	3104	29	Change "under any oath details" to "under oath any details".
1751	3107	1	Delete "now" after "whether".
1752	3111	25	Change "are not being" to "are now being".
1753	3112	15	Change "in a few questions" to "in the questions"
1754	3117	3	Delete "and" at beginning of line.
1755	3124	18	"plans" should be "plants".
1756	3128	2-3	Lines 2 and 3 should read as follows: "that I had to concede to Farben, since they were interested, for another firm to produce that product, but that they should".

4/4
(94)

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
1757	3128	5	Delete "to such a firm".
1758	3128	8	"the mention and figure" should read "you mention a figure".
1759	3128	18	"HI 1095" should be "HI 10595".
1760	5131	24	Place period after "Reich" and begin new sentence with "Industry".
1761	3136	30	Change "up this sense of the list" to read "up the sense of this list".
1762	3138	3	Insert "which" after first two words "all plants".
1763	3138	10	"That was" should be "That is".
1764	3140	7	Place comma after first word "chemical" and after "Four Year Plan".
1765	3140	8	Place comma after "chemistry".
1766	3141	26	"because" should be "became".
1767	3142	15-16	"whoever has" should be "whoever had" in both lines 15 and 16.
1768	3142	17	"whoever knows" should be "whoever know".
1769	3142	18	Place comma and delete dash after "experience". Change "that I had" to read "such as I had".
1770	3142	19	Change period to comma after "other side" and continue sentence with "that person".
1771	3144	1	Change "discussed," to "mentioned" and transfer comma to after "tomorrow".
1772	3148	28-29-30	Lines 28 to 30 should read as follows: At the end of the last paragraph on that page, I want to add after "Our own judgments of foreign states," - I would like to add the phrase "of foreign states", before "were top secret."
1773	3151	14	Change "Vorstand" to "Four Year Plan Office"
1774	3151	32	Delete "as a result of".

4/4
(95)

Item No.	Transcript page	Line(s)	PROPOSED CORRECTION
1775	3158	19	First word "inserted" should be "interested".
1776	3162	3	Change "made material available" to "material was made available"
1777	3162	11	Delete "and" at end of line after "broke out,".
1778	3162	16	First two words "it became" should be "it involved".
1779	3163	11	Insert "Exhibit 368, HI-6160," after "in the German.".
1780	3163	32	Place period after "sales combines". Change the rest of the line to read "Moreover, a part of this work was".
1781	3164	1	Change this line to read "requested directly by these sales combines and had something to do with Farben."
1782	3166	6	Delete "in" after "did you see".
1783	3166	7	"stamp on it" should be "stamp on them".
1784	3173	13	Change "or cumulative, or else our anticipated" to read "or are cumulative, or else are anticipated".
1785	3177	10	"Adolf Haele" should be "Adolf Hoehle".
1786	3177	31	Change "to interest themselves very" to "to interest himself".
1787	3178	17 Off.	"Hoele" should be "Hoehle".
1788	3178	18	Change "that can free themselves." to "to free themselves of it."
1789	3180	20	Change "similar to that we" to "similar so that we".
1790	3181	21	Insert "Exhibit 1069" after "HI 9289".
1791	3185	26	Change "the" to "they" before "had only".
1792	3187	3	Delete "and" before "in order".
1793	3187	4	Place period after "book" and begin new sentence with "Since the basic".

444
96

Item No	Transcript Page	Line(s)	PROPOSED CORRECTION
1794	3189	15	Change "regardless of location and those" to "let alone those".
1795	3189	24	Place period after "III-A". Begin new sentence with "Moreover some".
1796	3189	30	Place an "s" at end of "foreigner".
1797	3189	31	Change "of slave labor of such peoples" to read "of such slave labor."
1798	3189	3	Insert "I.G." after "Role of".
1799	3189	30	"because of means" should be "because the means".
1800	3190	7	Change "determined" to "diligent" and "relative" to "narrative".
1801	3190	22	Change line 22 to read "indictment on page 92, that the acts, conduct, plans, and".
1802	3191	6	Delete colon after "states" and add "in effect:"
1803	3191	7	Delete quotation marks at beginning of paragraph.
1804	3191	14	Delete quotation marks at end of paragraph.
1805	3192	3	Change "to Bruer" to read as follows: in the "Distress Project Bruer".
1806	3193	1	Delete "which" after EC 194, ".
1807	3193	8	"has not ordered" should be "has now ordered".
1808	3193	11	Delete comma and insert "is" after "next document".
1809	3195	1	Delete comma and insert "is" after "next document".
1810	3196	12	First word "skip" should be "skipping".
1811	3197	31	"affirmative" should be "affirmation".
1812	3198	5	Delete "it" before "is not an affidavit."
1813	3199	6	"Exhibit 1245" should be "Exhibit 1295".
1814	3201	11	Last word "index" should be "index".

Item No	Transcript Page	Line(s)	PROPOSED CORRECTION
1815	3202	18	Delete quotation marks before "it states" and place before "the recruiting".
1816	3202	24	"OS4 PA" should be OS4 PS".
1817	3203	1	Insert "the" after "fulfilment of".
1818	3203	2	Place quotation marks after "businesses".
1819	3203	6	Delete quotation marks at end of paragraph.
1820	3203	11	"capacity" should be "capability".
1821	3203	26	Delete quotation marks before "Report".
1822	3203	28	Delete quotation marks after "Germany".
1823	3203	29	Delete quotation marks before "to Germany".
1824	3203	32	Delete quotation marks after "indignities...".
1825	3204	4	Delete dash and quotation marks before "the inhuman".
1826	3204	8	"are dumped" should be "were dumped".
1827	3204	9	Delete quotation marks at end of paragraph.
1828	3204	14	Place quotation marks after "East".
1829	3204	16	Delete quotation marks after "workers".
1830	3204	17	Delete colon after "that" and quotation marks before "such".
1831	3204	21	Delete quotation marks at end of paragraph.
1832	3204	22-23	Delete "states that: "These extracts". Following word "recount" should be "recounts".
1833	3204	25	Delete quotation marks at end of paragraph.
1834	3204	29	Delete "an" and quotation marks before "to all group".
1835	3205	2	Delete quotation marks at end of paragraph.
1836	3205	20	Delete quotation marks and dash before "of the Chairman".
1837	3205	21	Delete quotation marks after "Frank." and before "this report".
1838	3205	24	Delete quotation marks at end of paragraph.
1839	3205	27	Delete quotation marks before "31 August 1943".

Item No	Transcript Page	Line(s)	PROPOSED CORRECTION
1840	3205	31	Delete quotation marks at end of paragraph.
1841	3206	2	Change colon to comma after "from minutes" and delete quotation marks before "1 March 1944".
1842	3206	3	Delete quotation marks after "Planning Board" and before "Sauckel".
1843	3206	8	Delete quotation marks at end of paragraph.
1844	3206	18	Delete quotation marks before "National".
1845	3206	26	Delete quotation marks at end of paragraph.
1846	3207	5	Delete "in" before "this document".
1847	3207	13	Place quotation marks at end of line after "the plant".
1848	3207	21	Change "or as the person" to "is the person".
1849	3208	7	Delete quotation marks at end of paragraph.
1850	3208	24	Delete quotation marks before "The instant".
1851	3208	25	Place quotation marks before "foreigners".
1852	3209	11	Place semi-colon after "manpower".
1853	3209	12	Delete semi-colon after "of war".
1854	3210	8, 17	Change "HI-1600" to "HI-6100".
1855	3211	23	Change "HI-1600" to "HI-6100".
1856	3212	29	Add "is that" at end of line, after "reconciliation".
1857	3214	21	Change first word "you" to "them".
1858	3215	3	Change "difference" to "division" and "clarification" to "classification".
1859	3216	16	Delete first word of line "that" and change the last one "drafted" to "concentration".
1860	3216	17	Change first word "slave" to "camp".
1861	3216	18	Change "and we have found it." to read "as we have found them".
1862	3217	6	"domination" should be "dominion"
1863	3219	8	Change comma to period after "Defense" and begin new sentence with "If you conclude".

4/4
(99)

Item No	Transcript Page	Line(s)	PROPOSED CORRECTION
1864	3219	23	"computation" should be "certification"
1865	3220	21	"through the Schkopau," should be "except Schkopau,".
1866	3229	1	Insert "is" after first word "This".
1867	3230	14	Last word "dismissed" should be "discussed".
1868	3231	4	Correct date: "27 February 1941"
1869	3231	6	Change "Diet" to "dyestuffs industry".
1870	3231	8	"2,847 workers" should be "2,847 workers".
1871	3232	12	Delete quotation marks before "suggestion".
1872	3232	13	Delete quotation marks after "participations."
1873	3232	19	"work of Sauckel" should be "work of the Sauckel campaign."
1874	3232	29	Place quotation marks after "ago" and delete quotation marks before and after "While agencies were detailed to Ludwigshafen".

44
(150)

ITEM NO.	TRANSCRIPT PAGE	LINE(S)	PROPOSED CORRECTION
1875	3236	18	"and the period" should be "in the period".
1876	3240	9	Insert "here" after first word "confronted".
1877	3241	19	"passage" should be "practice".
1878	3242	6	"an affidavit" should be "this affidavit".
1879	3242	19	Delete "so" after "brought here".
1880	3242	20	Change comma to semi-colon after first word "time".
1881	3245	9	"lawmen" should be "laymen".
1882	3249	25	Delete "why" before "such reduction".
1883	3252	8	"is 105" should be "is page 105".
1884	3254	21	"appointed him" should be "appointed me".
1885	3254	27	Delete quotation marks before "Aside".
1886	3256	4	"was not law" should be "was not lawful".
1887	3256	25	"if improper" should be "of improper".
1888	3262	4	Place quotation marks at end of paragraph.
1889	3263	9	"Geonet" should be "Grenet".
1890	3263	10	"Merek" should be "Mereck"; "van Mol" should be "van Mol".
1891	3265	25	Last word "identify" should be "identity".
1892	3265	27	"notice" should be "noticeable".
1893	3267	3	"meeting of Ludwigshafen" should be "of the meeting of the Ludwigshafen".
1894	3267	7	Insert "2" after "2.7".
1895	3267	11	Insert "illegible," after "signature".
1896	3267	22	Insert "here is" before last word "Schnitzler's"

44
101

ITEM NO.	TRANSCRIPT PAGE	LINE(S)	PROPOSED CORRECTION
1897	3269	22	Delete "to" after "caused".
1898	3269	26	"that the transfer" should be "at the transfer".
1899	3270	4	"though" should be "through".
1900	3272	20	Correct number is NI-2831.
1901	3272	30	"correct. The observation" should read "correct in the observation".
1902	3273	11	"way importance" should be "war importance".
1903	3273	17	"withhold" should be "hold".
1904	3273	18	"obeyance" should be "obeyance".
1905	3275	3	Delete last word "needed".
1906	3275	25	"affidavit" should be "affidavits".
1907	3281	3	Add comma at end of line after "have".
1908	3281	4	"served" should be "preserved".
1909	3284	5 & 12	Last word in both these lines "marded" should be "marked".
1910	3285	27	"for their ailments" should be "because of their ailments".
1911	3290	25	Insert "and" after first word "factories".
1912	3292	15	Delete one "they".
1913	3292	22	Last word "consisted" should be "consists".
1914	3292	29	"the beginning" should be "that beginning".
1915	3293	6	"NI 1654" should be "NI 6154".
1916	3293	11	Delete quotation marks before "At page".
1917	3294	16	"Besper" should be "Vesper".
1918	3295	14	Place quotation marks before "shortage".
1919	3295	22	Place dash after "service girls".
1920	3295	25 & 26	Place comma and dash after "volunteers". Delete "and the labor service girls" and change remainder of sentence to read "and then Female Crostians who come within the forced labor category."

448
102

ITEM NO.	TRANSCRIPT PAGE	LINE(S)	PROPOSED CORRECTION
1921	3296	4	Insert "show" after "NI-6125".
1922	3299	5	Insert "and" after "barracks".
1923	3299	6	Insert "of the English" after "page 26".
1924	3299	17	Place quotation marks before "Interrup- tion".
1925	3299	18	"pregnance of femal" should be "prog- nancy of female".
1926	3299	19	Place quotation marks after "Kreis."
1927	3299	29	Delete "the" before "Leverkusen".
1928	3302	11	Place quotation marks before "Bruex".
1929	3302	18	Place quotation marks after "Ludwig- shafen".
1930	3303	8	Delete quotation marks before "and sec- ond" and before "1 June".
1931	3303	12	Delete quotation marks at end of para- graph.
1932	3303	15	Delete quotation marks before "27 July 1943".
1933	3303	17	Delete quotation marks after "work".
1934	3303	18	Delete quotation marks before "concern- ing" and capitalize first letter of same word.
1935	3303	19	Place quotation marks before "assist- ance".
1936	3304	30	Delete quotation marks before "the epi- demics".
1937	3305	1	Delete quotation marks after "camp" at end of line.
1938	3305	5	Delete quotation marks before "Italian".
1939	3305	7	Delete quotation marks at end of para- graph.
1940	3305	23	Delete quotation marks before "In" at beginning of line.

44
103

ITEM NO.	TRANSCRIPT PAGE	LINE(S)	PROPOSED CORRECTION
1941	3305	24	Delete quotation marks after "man".
1942	3305	26	Delete quotation marks before "Medical".
1943	3305	29	Delete quotation marks at end of paragraph.
1944	3306	2	Delete quotation marks before "Italian".
1945	3306	6	Delete quotation marks at end of paragraph.
1946	3307	8 & 9	"campaign" should be "campaigns".
1947	3307	20	Delete quotation marks and place dash after "physician" at end of line.
1948	3307	22	Delete quotation marks before "at first".
1949	3307	27	Change "the cost possible" to read "even the possible cost".
1950	3308	3	Delete quotation marks before "5 French".
1951	3308	8	Delete quotation marks at end of paragraph.
1952	3310	15 & 16	Delete as repetition "the recruiting to this matter should be paid to the following:"
1953	3311	7	Insert "Committee" after "Examining".
1954	3312	11	Insert "according" after "division".
1955	3313	4	Delete quotation marks and dash before "drainage".
1956	3313	6	Delete quotation marks after "attention".
1957	3313	9	Delete quotation marks before and after "Then".
1958	3313	10	Delete quotation marks after "conditions" at end of paragraph.
1959	3314	18	Correct date to "31 July 1944".
1960	3315	4	Delete last word "speaks".
1961	3315	5	Insert "the" after first word "of".
1962	3316	10	"NI-964" should be "NI-8964".

4/4
(104)

ITEM NO.	TRANSCRIPT PAGE	LINE(S)	PROPOSED CORRECTION
1963	3316	22	Delete quotation marks before "food".
1964	3316	23	Delete quotation marks after "work."
1965	3316	24	Delete comma and insert "that" after "notation".
1966	3317	3	Delete quotation marks before "It is reported".
1967	3317	5	Delete quotation marks after "of men."
1968	3317	9	Delete quotation marks before "In comparison".
1969	3318	12	Delete "of one statement" at end of line.
1970	3318	21	Insert "to" after "statement".
1971	3322	4	Insert "date" before "1 March 1944" after "of the".
1972	3322	18	Delete quotation marks before "Upon advice".
1973	3322	20	Delete quotation marks after "draft,".
1974	3323	11	"250" should be "250".
1975	3324	24	First two words "that may," should be "that may be,".
1976	3324	25	Insert "and" before "it would".
1977	3327	6	Insert "name" after "State your".
1978	3330	1	Place "MR. MCHAM:" at beginning of line.
1979	3338	7	Insert "or else" after "to be sick".
1980	3339	14	"correct that." should be "correct in that."
1981	3343	22	Delete "In" and start sentence with "The affidavit".
1982	3348	2 & 3	Delete as repetition "that you were ill and, on the other hand,"
1983	3348	20	"and the plant" should be "of the plant".
1984	3350	22	Change "passed a medical examination of" to read "been examined by".

44
185

ITEM NO.	TRANSCRIPT PAGE	LINE(S)	PROPOSED CORRECTION
1985	3354	24	Add "Do you remember this name?" after "Schaffhaeuser?"
1986	3360	4	Insert "to the entrance next to" after first word "got".
1987	3365	25	"correct" should be "correctly".
1988	3366	10	"recalled" should be "called".
1989	3366	15	"misunderstanding" should be "misunderstanding of language."
1990	3366	16	"Police de l'usine?" should be "Police de l'usine in the affidavit?"
1991	3366	20 & 23	"factory police" in both these lines should be "factory guard."
1992	3368	7	First word "were" should be "wore".
1993	3368	18	"oisored" should be "visored".
1994	3372	16	"we did not even have" should be "we had not even had".
1995	3372	22	"rigor" should be "vigor".
1996	3372	29	"several of the, " should be "several of them,".
1997	3373	18	Place quotation marks around "Cloche a Gaz." ("Gaze" should be spelled "Gaz").
1998	3374	2	Place quotation marks around "Cloche a Gaz." (Again "Gaze" should be spelled "Gaz").
1999	3374	25	Delete "because".
2000	3374	26 & 27	Delete "we asked them who did it, and they told us".
2001	3375	1	Second word "of" should be "or".
2002	3375	3 & 4	Change "on the punishment detail." to read "for penal work."
2003	3376	21	"scop" should be "scope".
2004	3376	23	"witnesses" should be "witness' ".
2005	3377	28	"give us" should be "give me".

444
105

ITEM NO.	TRANSCRIPT PAGE	LINE(S)	PROPOSED CORRECTION
2006	3377	30	Change "the entrance to your camp No.5" to read "opposite to your camp No. 5."
2007	3378	30	"Yes, I have." should be "Yes, I did."
2008	3379	1	Change "Thirty yards, forty yards;" to read "Thirty meters, forty meters;"
2009	3381	18	"trenchs" should be "trenches".
2010	3381	21	Insert "them" after "through".
2011	3381	25	Insert "in the coker," after "shelter" in the middle of the line.
2012	3382	18	"near the factory?" should be "in the coker?"
2013	3384	14	Change "said? Was it directly" to read "said, that it was directly".
2014	3384	18	"with which we cooked" should be "which was cooked".
2015	3386	7	Change "water supply," to read "water pipe that also supplied the camp,".
2016	3386	32	Change last three words "other prisoners of" to "French civilian workers".
2017	3387	1	Delete first two words "other nationalities".
2018	3389	33	"in any Cost" should be "at any Cost".
2019	3391	14	"In recommend said" should be "In recommending the said".
2020	3391	30	Delete as repetition "book, there is no document which is supporting this".
2021	3393	10	"11181 to" should be "11781 do".
2022	3393	11	"NI-11181" should be "NI-11781".
2023	3393	30	Change comma to semi-colon after "index" at end of line.
2024	3394	3	"thing" should be "think".
2025	3394	9	Place "that" at end of line after "has".

444
197

ITEM NO.	TRANSCRIPT PAGE	LINE(S)	PROPOSED CORRECTION
2026	3395	8	"quitable" should be "equitable".
2027	3397	6	Insert "tomorrow" after "witnesses".
2028	3402	29	"inmates with the " should be "inmates within the".
2029	3403	16	"a number" should be "the number".
2030	3404	1	Insert "of this affidavit; and I ask for the opportunity" after "the admissibility".
2031	3407	23	Delete "s" in "documents".
2032	3408	12	"Camp V" should be "Camp 4".
2033	3409	5	"7" at beginning of line should be "72".
2034	3409	10	"Camp 5" should be "Camp 4".
2035	3409	16	"Tribunals" should be "Tribunal".
2036	3409	17	"that we will" should be "and then we will".
2037	3412	22	Insert "1433" after "1432".
2038	3414	6	Insert "and" before "the" at end of line.
2039	3414	10	Last word "was" should be "as".
2040	3414	27	"out books" should be "our books".
2041	3416	19	Delete "to" before "these" at end of line.
2042	3417	8	Change semi-colon to comma after first word "inmates".
2043	3418	2	"of" before last word in line should be "or".
2044	3418	3	Place "and" before "either one" at beginning of line.
2045	3420	6 & 7	Change period to comma after "Lagerbestreuung," and change following sentence beginning with "As" to read as follows: which even when the Prosecution maintained that both words were used, they themselves translated as "camp care".
2046	3420	13	First word "can" should be "cannot".

4/14
(108)

ITEM NO.	TRANSCRIPT PAGE	LINE(S)	PROPOSED CORRECTION
2047	3420	24	Delete first word "that".
2048	3421	21	"evacuation" should be "excavation".
2049	3422	7	Last word "typhus" should be "typhoid cases".
2050	3425	19	Insert "that the Prague gentlemen" after first two words "Prague gentlemen," and before "on their own initiative,".
2051	3426	16	Change "Carl" to "Kehl".
2052	3427	19	"looking" should be "locking".
2053	3432	11	"to bring out" should be "to make certain".
2054	3439	5	Insert "of the" before "Montan" at end of line.
2055	3439	29	"This Sperte" should be "This field of the I.G.".
2056	3440	15	Change period to comma after "detail" and add after it "because I do not know what works are meant.".
2057	3443	28 & 29	Change this answer to read "The rate of interest was determined by the discount rate of the Reichsbank at the time."
2058	3445	15	"from the Reich to the firm" should read "from the Reich, the Armament Department, directly to the firm".
2059	3445	20	"included, or as" should be "included on a parallel basis, or as".
2060	3445	23	"superiors" should be "superior".
2061	3445	32	"r year 1943." should be "the year 1943."
2062	3446	21	"safeguard" should be "safeguarded".
2063	3446	31	"very long this line," should be "very long along this line,".
2064	3447	10	"created an impression would" should read "creates an impression which would".

44
109

ITEM NO.	TRANSCRIPT PAGE	LINE(S)	PROPOSED CORRECTION
2065	3447	12	Insert "has" after "witness".
2066	3455	22	Change "122" to "119".
2067	3458	7 & 9	Last two words "list persons" in both lines should be "list of persons".
2068	3460	22	"suffidicne" should be "sufficient".
2069	3463	10	"innate affidavits," should be "innates' affidavits,".
2070	3465	6	"clod" should be "cold".
2071	3466	16	"five hundred" should be "one hundred fifty".
2072	3469	14	"Mr. Reied" should be "Mr. Fried".
2073	3472	18	Change "Tribunal" to "proceeding".
2074	3473	15	Change entire line beginning with "connection" to read "connection with the Commission or the order under which it will operate are incomplete."
2075	3474	3	Last two words "add vouching" should be "and vouching".
2076	3475	5	"circumstances" should be "circumstance".
2077	3477	3	"Then ask your" should be "Then I will ask your".
2078	3482	5	Change period to comma after "No. 7" and continue the sentence with "the express".
2079	3482	10	"extend" should be "extent".
2080	3483	14	"I meant to say" should be "I mean to say".
2081	3483	16	"to work out" should be "to work it out".
2082	3483	22	Change comma to semi-colon after "NI-6667 " at end of line.
2083	3483	23	Change comma to semi-colon after "NI-4972 ".
2084	3483	29	"in this announcement" should be "of this announcement".
2085	3484	8	"syayed" should be "stated".
2086	3484	23	Start a new Paragraph with "I am" after "objection."

444
(110)

ITEM NO.	TRANSCRIPT PAGE	LINE(S)	PROPOSED CORRECTION
2087	3484	27 & 28	Delete as repetition all of line 27 and first three words "reserve the right" in line 28.
2088	3485	13	Insert "some" after "offered".
2089	3485	14	Insert "early" after "point".
2090	3485	18	Place comma after "further,".
2091	3485	19	Place comma after "was made,".
2092	3487	4	Change first two words "No. II." to read "to Book No. 11."
2093	3487	24	Place period after "time-sever."
2094	3488	8	First two words "we did" should be "we will". Insert "all" after "counsel".
2095	3488	9	Delete "serve" before last word "of".
2096	3489	16	"Pohl" should be "sole".
2097	3490	16 - 21	Change entire paragraph to read "Your Honors, I beg you to allow me to make a short statement. I would like to testify in my native Czech language. Because of the difficulties which the interpreters will have, who are not familiar with all the different technical expressions to translate them from Czech into the English language, I have decided to abandon this decision of mine, and, for these technical reasons, to testify in German."
2098	3491	11	"in fron" should be "in front".
2099	3502	5	Change "sixteen" to "ten".
2100	3503	24	"dimers" should be "division".
2101	3504	4	"Dr. Bosch" should be "Dr. Basch".
2102	3504	21	Insert "paid" after "amount".
2103	3504	22	Change "This fact was only became known after" to read "This fact only became known to you after".

ITEM NO.	TRANSCRIPT PAGE	LINE(S)	PROPOSED CORRECTION
2104	3507	1	Change "No" to "yes".
2105	3509	4	Delete last word "still".
2106	3510	5	"in this cause" should be "in this case".
2107	3511	16	Insert "not" after "was it" before "in 1938".
2108	3511	17	Delete second word, "not".
2109	3511	19	Change entire line to read "(cooper)- ation they had placed a lot of Farben experiences in these two plants?"
2110	3513	15	Change "should not be considered as sold?" to read "was not to be consider- ed covered by the sale?"
2111	3513	26	Change "and therefore that we demanded recognition" to read "and therefore we demanded quasi recognition".
2112	3514	10	"shipped" should be "cheap".
2113	3517	13	Insert "was" before last word "all".
2114	3517	23	Changed "sold to the present" to read "deposited in the present".
2115	3519		Change Pagination "3619" to "3519".
2116	3519	6	"has to be sold." should be "had to be sold."
2117	3519	9	Place comma before and after "that is,".
2118	3519	22	Place comma after "negotiations" at end of line.
2119	3519	23	Place comma after "that is".
2120	3520	8	First word "That" should be "It".
2121	3520	25	"I.G." marks the end of the question. Place "A. No, it was never operated—" as the answer of the witness between lines 25 and 26.
2122	3521	10	"Lueller" should be "Mueller".

ITEM NO.	TRANSCRIPT PAGE	LINE(S)	PROPOSED CORRECTION
2123	3522	13	"residing" should be "resigning".
2124	3522	27	Delete "were" after "in the bank,".
2125	3536	30	"what the contents" should be "that the contents".
2126	3537	2	Change entire line to read "socialist system obviously.".
2127	3544	26	"52" should be "56".
2128	3546	6	Change "there 400 to 420 were in one" to read "there were 400 to 420 in one".
2129	3546	28	Change "defense. You're" to read "defense when you're".
2130	3548	25	First word "proceed" should be "precede".
2131	3550	12	Last word "published" should be "delivered".
2132	3550	32	Delete last two words "in the".
2133	3551	13	Place dash after last word "quantities."
2134	3554	12 & 13	Lines 12 and 13 should read "A. Farben had signed in Hell 820; in the firm of Burbank, Burbank had signed; and in the paint shop Farben had signed; also Farben in the shoemaker's shop."
2135	3566	8	"and this bulletin was made" should read "when this bulletin came out".
2136	3567	2	Last three words "in one block" should be "is one block".
2137	3567	12	Delete last word of line "was".
2138	3569	28	Place comma after "Kommiss".
2139	3570	7	"carrying on" should be "carrying in".
2140	3570	9	"carried on" should be "carried in".
2141	3575	24	Insert "but" after "I don't know".
2142	3576	1	"ill" should be "will".
2143	3581	7	Change "Q" to "A". ("Who in Germany—", etc., is the reply from the witness.).

44
113

ITEM NO.	TRANSCRIPT PAGE	LINE(S)	PROPOSED CORRECTION
2144	3582	15 & 16	Between lines 15 and 16, insert the following: THE PRESIDENT: Is this man mentioned in the affidavit? DR. DRISCHEL: Yes, Your Honor. He is mentioned under point 4. The witness says there: "I obtained this information from prisoners who were employed in the orderly room at Monowitz and who had to be correctly informed about these things, as for instance, Stefan Hymann."
2145	3583	28	Last word "participate" should be "participated".
2146	3585	15	"I am playing the piano," should be "I play the piano,".
2147	3590	12	First word "forty" should be "sixty".
2148	3594	2	Place "war" after "when the" at end of line.
2149	3594	18	"of their long time" should be "of the long time".
2150	3594	23	Delete "Do you know that?" (entire line).
2151	3605	6	"in the case" should be "in that case".
2152	3608	24	Insert "as" after "instructions".
2153	3615	27	"reply" should be "rely".
2154	3616	23	Last word "but" should be "by".
2155	3626	13	Last word "sides" should be "sites".
2156	3630	11 & 12	Change "so they would be gassed," to read "would be gassed."
2157	3631	19	"in such a barracks," should be "in such full barracks,".
2158	3631	29	"51 were living" should be "51 were for living".

ITEM NO.	TRANSCRIPT PAGE	LINE(S)	PROPOSED CORRECTION
2159	3635	8	"and to the cases" should be "and for the cases".
2160	3651	14	"capoa" should be "kapos".
2161	3651	30	Add "who" at end of line after "prisoners".
2162	3651	31	"these prisoners" should be "these were prisoners".
2163	3654	27	Place dash after "proceedings" at end of line.
2164	3657	30 & 31	"was unconsipicuous" should be "is consipicuous".
2165	3665 & 3666	32 1	After Line 32, of Page 3665, and before Line 1, of Page 3666, insert the following: Q. I would like to know from you, Witness, whether you were arrested because you belonged to a certain party? A. I belonged to no Party. Q. And also today you belong to no Party?
2166	3667	6	Last three words "there not a" should be "there was not a".
2167	3667	7	Delete "was" after "prisoner".
2168	3668	33	First word "barracks," should be changed to "barracks parts,".
2169	3668	1	Change "trucks" to "stones".
2170	3675	32	Delete period and insert "the cards which each senior inmate kept of his people," after "the camp".
2171	3683	13	Last word "then" should be "that".
2172	3687	20	Insert "across" after "to get it".
2173	3689	31	Last three words "that was there." should be "that were there."

44
115

ITEM NO.	TRANSCRIPT PAGE	LINE(S)	PROPOSED CORRECTION
2174	3692	29	"were in September" should be "were used in September".
2175	3695	12	Change "was either hushed (?)" to read "was pushed farther on".
2176	3701	16	Delete "Schwerin Oberlandespraesident in".
		17	Insert "Schwerin Oberlandespraesident," after "present".
2177	3702	2 & 3	"eldest" should be "eldests", in both lines.
2178	3705	25 & 26	Insert "which" before "by reason". Delete "in which" after "they had".
2179	3706	2	Place semi-colon after "about that".
2180	3707	32	Change last three words "Kapo and foreman" to "inmates."
2181	3713	11	"many cases were" should be "many cases where".
2182	3715	7	"as I.G. buildings." should be "as an I. G. building."
2183	3717	1	Last word "the" should be "that"
2184	3718	22	Add "for this afternoon." after "Mr. Rausch".
2185	3721	7	Place quotation marks before "because".
2186	3724	7	Insert "to" before last word "the".
2187	3724	10	Change "issued and I said" to read: "assured" and I added
2188	3724	12	Delete quotation marks after "of war".
2189	3724	18	"and as stated" should be "and not as stated". Place comma after "translation".
2190	3725	29	Change "private business" to "these authorities".
2191	3726	7	"1943" should be "1942".
2192	3726	25	Change "that officials, neither in meetings" to read "that neither in official meetings".

4/4
116

ITEM NO.	TRANSCRIPT PAGE	LINE(S)	PROPOSED CORRECTION
2193	3726	28	Delete first word "perhaps". Place comma after "If at all,".
2194	3727	2	Change "overlooked" to read "set aside",.
2195	3727	4	Change entire line to read "opinion that it was inadmissible, that we could not do this,".
2196	3728	4	"question" should be "questions".
2197	3728	14	"customary from" should be "customary form".
2198	3728	26	Change entire line to read "from Germany, this application is valid at the same time as an".
2199	3728	27	Delete "the" before allocation" and add "as" at end of line.
2200	3728	28	Change "of the business management to permit" to read "for the granting of employment approval for".
2201	3728	31	"this affidavit" should be "your affidavit".
2202	3728	32	Change entire line to read "emerge as though basically private firms were the ones who".
2203	3729	1	Delete "true" after "reasons".
2204	3729	5	Change "Mr. SPRECHER:" to "Mr. VAN STREET:"
2205	3730	2	"voluntarily" should be "involuntarily".
2206	3730	17	Insert "which" after first word "character".
2207	3730	22	Insert "this" after "directly on".
2208	3732	2	Place period and insert "It is also" after "itself".
2209	3732	5	Insert "the" after first word "that".
2210	3732	12	"estimates that" should be "estimates from".

4/4
(117)

ITEM NO.	TRANSCRIPT PAGE	LINE(S)	PROPOSED CORRECTION
2211	3732	32	Place comma after "affidavit" and change "that we" to "but I".
2212	3733	11	Change "I am convinced, this was also done in the Flick trial," to read "I am convinced, - and this also happened in the Flick trial,-"
2213	3733	25	Insert after "Military Internees?" the following: "Shall I repeat the question once more or isn't it necessary?"
2214	3734	4	"that the position" should be "to improve the position".
2215	3734	5	Delete "was tried to be improved".
2216	3734	11	"their legal position" should be "or the legal position".
2217	3735	27	"that they were" should be "whether they were".
2218	3736	12	Change period to comma after "year".
2219	3736	15	Delete "and" after "tension".
2220	3736	16	Delete "this obligation".
2221	3736	19	Change period to comma after "brought in" and continue the sentence with "for which Polish workers were thought-".
2222	3737	31	Insert "whence" after "Moravia".
2223	3738	26	First word "What" should be "Would".
2224	3739	20	Delete "with" at end of line.
2225	3739	21	Change entire line to read "whether or not he could not, by lack of initiative, refuse to go into certain kinds".
2226	3739	22	Change period to comma and place dash after "ordered". Next word "All" should be "all".
2227	3740	6	Place period after "carried out" and start new sentence with "With".

ITEM NO.	TRANSCRIPT PAGE	LINE(S)	PROPOSED CORRECTION
2228	3740	26	Insert "have" after "could never".
2229	3745	32	"exported" should be "exploited".
2230	3746	17	Insert "it" before "is necessary".
2231	3747	4	"#6190" should be "NI-6190".
2232	3749	28	"after had" should be "after he".
2233	3750	2	"act" should be "fact".
2234	3753	12	Insert "book" after "document".
2235	3758	20	Second word "the" should be "these". Place comma after "Birkenau".
2236	3759	10	Insert "to" before last word "that".
2237	3762	2	Place period after "explain." Following words "every inmate" should be "First, every inmate".
2238	3762	20	"say" should be "saw".
2239	3763	24	"such as glasses," should be "such as artificial limbs and glasses,".
2240	3763	26	Delete "these things".
2241	3763	27	Insert "took away with them" before "their glasses", and place period after "limbs" at end of line.
2242	3763	28	Delete "were always kept."
2243	3765	5	Delete second word "only."
2244	3767	11	Insert "Camp" after "Concentration".

444
119

Item No.	Transcript Page	Line(s)	Proposed Correction
2245	3773	6	Insert "rest" after "so-called".
2246	3783	17	Change last word "rarely" to "sometimes".
2247	3785	5	Change "in Monowits," to read "on that day,".
2248	3787	8	Delete "what I know," at beginning of line.
2249	3787	10	"By" should be "From".
2250	3787	12	Place comma after "but" and insert "Your Honor," before "if the witness".
2251	3787	20	Change "about a tram over levers," to read "over drums, with trams, lever works, work shafts,".
2252	3787	28	"is done" should be "was done".
2253	3787	33	"to push it" should be "to push them".
2254	3789	4	"by I.G." should be "from I.G."
2255	3790	7	Place period after "out." at end of line.
2256	3790	8	Delete "by the collaboration."
2257	3790	16	"being used" should be "is used".
2258	3790	17	Change "observations" to "exceptions".
2259	3790	18	First word "made" should be "make".
2260	3790	20	"or are" should be "which are".
2261	3791	5	"terms." should be "term."
2262	3791	30	Change "On the other hand," to "Further,". Also change last word "permanently" to "constantly".
2263	3792	7	Place comma after "crowded" and change following word "and" to "but".
2264	3793	4	Change first word "charts" to "reports". Also change "other hand" to "other side".
2265	3794	25	"have sent" should be "have sent away".
2266	3796	6	Change "which I shall not" to read "if I now".

4/4
(20)

Item No.	Transcript Page	Line(s)	Proposed Correction
2267	3798	13	"obtain" should be "send".
2268	3801	29	Change "more simple" to "greater".
2269	3802	18	Insert "have the possibility to" after "could you".
2270	3806	2	Delete question mark and insert "if they" after "inmates" at end of line.
2271	3806	3	First four words "At first they gave" should read "at first gave".
2272	3806	24	"it is" should be "which is".
2273	3806	28	"obedisques" should be "obelisks".
2274	3807	3	Change comma to period after "finished" and delete "yes".
2275	3808	17	Insert "with it" after "reported".
2276	3816	15	Place closing parenthesis after "indicating" at end of line.
2277	3817	19	"say" should be "saw".
2278	3818	3	"when it was" should be "that it was".
2279	3818	9	Insert "the" after second word "for".
2280	3818	22	"you" should be "who" before "committed".
2291	3819	19	Delete "in" after "also see".
2282	3819	21, 22 & 23	Change lines 21, 22 and 23 to read: "MR. LINGHOFF: The Prosecution moves at this time to strike the description of the pictures out of the record. The description of the record is not evidence. It's merely description. We think a circumstance is being put as evidence before the Court here which"
2283	3820	10	Change "concerning the authors" to read "and the names of the authors".
2284	3823	11	"or answer the" should be "or his answer to the".
2285	3823	21	"But they have" should be "but they had".
2286	3827	30	"1467" should be "1472".
2287	3833	10	Delete "time".

44
121

Item No.	Transcript Page	Line(s)	Proposed Correction
2288	3833	11	Last two words "for piece" should be "to piece".
2289	3833	12	First word "time" should be "work".
2290	3833	20	"in the best" should be "for the best". Last two words "but some" should be "and some".
2291	3835	12	"feel" should be "fall".
2292	3836	13	"isn't it?" should be "wouldn't it?".
2293	3836	30	"certainly is" should be "certainly was".
2294	3836	31	"is it?" should be "was it?"
2295	3838	8	"told me" should be "told us".
2296	3839	13	Change "Yes" to read "That I would question." Continue with "Do you", etc.
2297	3839	32	Add "necessary?" at end of line after "noise is".
2298	3842	10	Insert dash after last word "question" and before period.
2299	3842	30	"A bus man" should be "A desk man".
2300	3842	31	Change "for anything," to "for a firm,".
2301	3844	8	"can't" should be "couldn't".
2303	3846	28/29	Between lines 28 and 29, insert the following: Q. In the Lager, were also two English physicians who had the care of the English prisoners-of-war, weren't there? A. Yes.
2303	3847	31	Change "kessels" to "boilers".
2304	3848	6	"dessels" should be "boilers".
2305	3848	25	"Haeftlingey" should be "Haeftlinge".
2306	3848	26	Change "All of them." to read "Of all nations."
2307	3849	4	"had no clothes properly" should be "had no proper clothes."
2308	3850	5	Delete "a" before "Haeftlinge".
2309	3851	23	"can't" should be "couldn't".

44
122

Item No.	Transcript Page	Line(s)	Proposed Correction
2310	3856	21	"not cross examine" should be "not be cross examined".
2311	3860	5-6	Delete as repetition "and he sent me to the workshop and there I knew my work."
2312	3862	18	Change "sustained" to "overruled".
2313	3866	2	Change "we were worked less hard" to read: "since we worked there, were less hard".
2314	3866	32	Insert "thousand" after "hundred-fifty".
2315	3869	5	"had political Kapos" should be "had a political Kapo".
2316	3870	6	Last two words "I had" should be "It has".
2317	3870	15	Change first word "impressive" to "impressible".
2318	3871	18	First word "say" should be "saw".
2319	3872	3	Insert "except" after "them".
2320	3872	12	Last word "carefully" should be "careful".
2321	3874	5 & 16	"Pheifer" should be "Pfeffer".
2322	3875	2	"they were" should be "it was".
2323	3876	24	"an issue" should be "no issue".
2324	3880	15	Second word "transcript," should be "document books,".
2325	3883	11	Insert "of the document" after "page 2".
2326	3883	15	"1401" should be "1501".
2327	3885	17	Place quotation marks at end of line after "speeded up."
2328	3885	18	Place "Under point 4:" and quotation marks before first word "additional".
2329	3885	19	"NI-109408" should be "NI-10948".
2330	3886	5	"Exhibit 1411" should be "Exhibit 1511".
2331	3892	15	Delete "The" and begin the next sentence with the following word "lost".
2332	3893	28	Change second word "then" to "that".
2333	3897	24	Delete "red" before "copy of a letter."

44
12.3

Item No.	Transcript Page	Line(s)	Proposed Correction
2334	3898	31	Place quotation marks before "His superior".
2335	3901	15	"with to" at end of line should be "wish to".
2336	3902	2	Change "Dr. DRISCHEL:" to "DR. DLX:".
2337	3902	15	Delete "there was".
2338	3902	16	Change "it should be adequate" to "was adequate".
2339	3902	30	Change "DR. DRISCHEL:" to "DR. DIX:".
2340	3903	2	As above.
2341	3903	10	As above.
2342	3909	14	Change "provided by" to "sub-ordinate to".
2343	3909	15	"by Dr. Frick" should be "to Dr. Frick".
2344	3910	11 to 14	Change lines 11, 12 and 13 to "of Jews;" in line 14, to read as follows: "A. I never asked him. We had discussed that methanol several times among us, and there were present various employees of the methanol plants and of the glass store. Mr. Kalms never made any secret of the fact that this methanol was to serve for the burning of Jews;".
2345	3911	10 & 11	Lines 10 and 11 should read as follows: "A. These quantities were not the only ones delivered; I only saw a single bill, for 50 thousand liters of methanol, which in".
2346	3911	15	Change entire line to read as follows: "A. I have said already that this was something about which the foremen Kalms and Kriss and Dr. Reichhardt, who was in the".
2347	3911	16	Insert "discussed" after "frequently".
2348	3911	31	"no" should be "not".
2349	3912	3	Change "when the sun rose," to read "when it was still dark,".
2350	3913	6	Change "he was a bit interested in the work I made," to read "he had a certain interest in the work I did."

4/4
MP

Item No.	Transcript Page	Line(s)	Proposed Correction
2351	3913	9	Change "I.G." to read "Aldol". Delete "bit" after "organization".
2352	3913	13	Insert "in France" after "advance".
2353	3913	15	Place dash after "statement" and before "I mention".
2354	3913	17	Insert "the" after "Isn't it".
2355	3913	20	Delete "had", fourth word in line.
2356	3914	12	Change "five minutes which the conversation" to read "five minutes in which I had the conversation".
2357	3914	14	"from" should be "front", "minuted" should be "minutes", and last word "somebody" should be "anybody".
2358	3914	21	"because you say that transports" should be "as you say that when transports".
2359	3914	23	Delete "that" after "affidavit".
2360	3914	25	Delete "heard them and".
2361	3915	6	Place "The objection is sustained." after "THE PRESIDENT:". Change "Then ask him" to "Ask him".
2362	3915	12	Change entire line to read "we failed to return and we saw no one anymore who was transferred to Birkenau and".
2363	3915	20	"lod" should be "lead".
2364	3915	22	Change "Montpellier" to "Krist".
2365	3916	30	Delete "that" at end of line.
2366	3916	21/22/23	Delete all three lines as repetition.
2367	3916	29	"oar" should be "card".
2368	3919	5	"what was almost" should be "who was almost".
2369	3922	32	"run" should be "ran".
2370	3923	16	"these workers of that lager" should be "the workers of these lager".
2371	3930	11	"which were filtering beds" should be "for the filtering basins".
2372	3933	3	Change last three words "know it was" to "know that".
2373	3933	6	Change period to comma after "Campbell" and delete following word "He".
2374	3939	4	Change "but yes" to "herein".

Item No.	Transcript Page	Line(s)	Proposed Correction
2375	3942	4	"and" should be "to".
2376	3944	27	Place period after second word "German".
2377	3948	27	First word "it" should be "them".
2378	3953	13	"NI-10928" should be "NI-10927".
2379	3954	23	"18807" should be "9807".
2380	3955	21	First word "Here" should be "More".
2381	3966	18	Insert "that" after "to see" before last word "the".
2382	3969	12	"commandt" should be "commandant".
2383	3974	27	Place comma after "six o'clock".
2384	3975	15	Insert "then" after "that".
2385	3982	14	"don't" should be "didn't".
2386	3983	5	Delete "and" after "pulled out".
2387	3983	22	Place period after "Objection" and delete "sustained".
2388	3983	22/23	Between lines 22 and 23 insert "THE PRESIDENT: Objection sustained."
2389	3984	7	Add "and" at end of line after "listed".
2390	3987	17	"Out Patient War." should be "Out Patient Ward."
2391	3989	3	Delete "to him" after "recommended".
2392	3993	18	Insert "in" after first two words "be seen".
2393	3994	25	"One through" should be "In one through". Change last two words "and the" to "and in the".
2394	3994	26	Delete last part of line "That is, it never had an".
2395	3994	27	Change entire line to read "In the latter, they were appointed as administrators, that is, they had".
2396	3995	17	Delete "of" after "call".
2397	3995	30	Delete comma after "I believe" and place comma after "it was".
2398	3996	3	Insert "on" after "which is".
2399	3996	4	"of Bueteifisch" should be "to Bueteifisch".

4/4
126

Item No.	Transcript Page	Line(s)	Proposed Correction
2400	3996	6	Change last three words "to be purchased" to read "to have it purchased".
2401	3996	13	Insert "of the index" after "page 10" at end of line.
2402	3996	16	Change "who writes" to "writing".
2403	3997	2	"NI-1035" should be "NI-10535".
2404	3997	16	"of the act" should be "of the part". Last three words "or the Farben" should be "and the Farben".
2405	3997	17	"procures" should be "procured".
2406	3997	18	"in another one" should be "in any one".
2407	3997	21	First word "ot" should be "of".
2408	3997	30	Insert "from" before "which I".
2409	3997	31	Change "one, because it shows" to read "only some, because they show".
2410	3997	32	Change comma to semi-colon after "meetings".
2411	3998	13	Insert "who" after "any jurist".
2412	3998	17	Delete "but what there would be any question". In the following part "what crime" should be "that crime".
2413	3998	22	"permitted" should be "permits".
2414	3998	23	Change "from the subsidiary company which" to simply "from which".
2415	3998	32	Change "sponsored" to "responsible".
2416	3999	9	Insert "Farben" before last two words "would use".
2417	3999	13	Insert "with ownership by Farben as to" before "some a hundred percent".
2418	3999	14	After first word "percent" insert "a thing which I think the documents have shown already imply, as in the Huls plant." Start new sentence with "But it". Delete last word of line "with".
2419	3999	15	Change first two words "respect to" to read "is allowed to cover up". Delete commas and "I think" at end of line.
2420	3999	16	Delete entire line.
2421	3999	17	Delete "indeed".

44
127

Item No.	Transcript Page	Line(s)	Proposed Correction
2422	3999	18	Insert "in the modern world" after "indeed".
2423	4004	7	Change "making" to "offering".
2424	4004	13	Add "not" at end of line after "has".
2425	4005	16	Delete "that is submitted".
2426	4007	12/13	Between lines 12 and 13, insert "Prosecution Exhibit 1541 for identification. NI-10524 is offered as".
2427	4008	27	Delete "except" before "because".
2428	4009	31	"in throwing" should be "is throwing".
2429	4010	3	"was to have" should be "does not have".
2430	4011	10	First word "in" should be "and".
2431	4012	27	Insert "and" before "have it available".
2432	4013	30	Insert "an order" after "to make".
2433	4015	19	"and on which" should be "and which".
2434	4016	1	Last two words "The affidavits" should read "As to the affidavits".
2435	4016	5	"Hochle" should be "Hochle".
2436	4018	14	"a reference of" should be "a reference for".
2437	4024	5	Delete semi-colon and place dash after "we might".
2438	4027	16	Place comma and delete "at" after "Office".
2439	4027	17	Place quotation marks before "Feldwirtschaftsamt" and place comma after same word.
2440	4027	26	"and it is" should be "and they are".
2441	4028	13	"937" should be "936".
2442	4028	16	Insert "that" before last word "the".
2443	4029	2	Change comma to period after "Book 2".
2444	4029	3	Change period to comma after "book 31" and delete next word "It".
2445	4031	15	"is a private" should be "was a private".

444
128

Item No.	Transcript Page	Line(s)	Proposed Correction
2446	4031	17	"misunderstand" should be "misunderstanding".
2447	4033	4	Place "Dr. GIEZELICH:" before "Your Honors," at beginning of line.
2448	4033	4/5	"A. I still" at end of line 4, belong at beginning of line 5. (This is the reply of the witness.)
2449	4033	7	Place "Q." at beginning of line, before "Colonel".
2450	4038	6	Insert "was shown, a narrow street" after "Auschwitz". Delete "so it said,". Change comma to period at end of line.
2451	4038	7	Delete "a narrow street."
2452	4039	13	Place comma after "sketches" and again after "that is".
2453	4039	21	"knot" should be "noted".
2454	4040	9	Change "after I had introduced" to "I had already introduced".
2455	4041	2	First word "re" should be "rea".
2456	4041	3	Second word "helo" should be "will".
2457	4041	16	"mekery" should be "mockery". "at mitigation" should be "of mitigation".
2458	4041	27	Change "have involved concern" to read "were founded which were concerned with". Insert "over" before last word "practically".
2459	4042	2	Delete "the" before "Soviet" and place comma after "Russia".
2460	4042	5	Delete last word of line "same".
2461	4042	7	"moncaly" should be "monopoly".
2462	4042	13	"these had been" should be "this had been".
2463	4042	27	Change "is referring to that." to "refers to this."
2464	4043	1	Insert "charters" after first word "corporation".
2465	4043	3	"or Economics." should be "of Economics."
2466	4043	11	"NI-4040" should be "NI-440".
2467	4043	21	Change "There's a" to read "Here we have a".

Item No.	Transcript Page	Line(s)	Proposed Correction
2468	4043	22	Change entire line to read "will remember the preceding decrees, you will note that".
2469	4043	23	Delete first and third words "and" and "later".
2470	4043	24	Place comma after "Russia" and change last two words "and reduced" to read "such as reducing".
2471	4043	25	Insert "state" after "raw material".
2472	4043	26	Change entire line to read "to another and I call your attention at this time, your Honors, to the fact that the".
2473	4043	27	Last two words "that purpose" should be "this purpose".
2474	4044	6	Insert "the" after "first being".
2475	4044	10	Delete last two words "to the".
2476	4044	11	Delete entire line as repetition.
2477	4044	18	"Mr. Prosecution," should be "Mr. Prosecutor,".
2478	4044	28	"4970" should be "NI-4970".
2479	4044	29	Insert "Exhibit" before "1562".
2480	4044	30	"fet" should be "got".
2481	4045	2	Insert "up" after "to put".
2482	4045	5	Insert "Exhibit" before "1564".
2483	4045	15	Change comma to period after "company" and start new sentence with "It was".
2484	4045	18	Add "that" at end of line after "Count 4,".
2485	4045	27	Place comma after "lands". Change "which forests, etc." to "forests, etc. which".
2486	4045	31	"were owned" should be "are owned".
2487	4046	1	Change "men analogous may as provided the regulations" to read "analogous to the regulations".
2488	4047	7	"PI-2021" should be "NI-2023".
2489	4047	16	Insert "cannot make Farben" after first two words "Oil A.G.". Change comma to period after "management" and delete last word of line "cannot".

Item No.	Transcript Page	Line(s)	Proposed Correction
2490	4047	17	Delete first two words of line "make Farben."
2491	4048	7	Change "referred to State owned matters" to read "in referring to State-owned property, referred to matters".
2492	4048	12	Place comma after "State". Change "The Hague" to read "For then the Hague".
2493	4048	24	Change "Poland" to "the East".
2494	4048	25	Insert "was" after third word "pattern".
2495	4049	3	"is material" should be "are material".
2496	4049	24	Change "any talk about" to "a discussion about".
2497	4049	31	"consummation" should be "consummated".
2498	4050	8	"was only the" should be "was the only".
2499	4050	10	Last three words "he could have" should be "there could have been".
2500	4050	11	First word "had" should be "a". Change "during" to "doing".
2501	4050	12	Place period after "Oil". Begin new sentence with "But what". Insert "the" before "policy".
2502	4050	21	Insert "the" before last two words "controlling thing".
2503	4050	26	"But I stated by" should be "But here I stated that by".
2504	4050	27	Change entire line to read "was in some degree only a question of weight. What is important is the".
2505	4050	31	Delete "that" before the last word "a".
2506	4050	32	Delete "is made" after first word "quotation".
2507	4052	5	Change "questions" to "element".
2508	4052	8	Change "beliguerant" to "enamy".
2509	4052	12	Place comma after "Count I".
2510	4052	14	Change comma to period after "war". Begin new sentence with following word "You".

Item No.	Transcript Page	Line(s)	Proposed Correction
2511	4053	4	Change "if you were to take anything where" to read "you assume that an".
2512	4053	5	Change "or not you can even go as far as the Hague Convention." to read "you assume that the Hague Convention applies."
2513	4053	8	"content" should be "contend".
2514	4053	10	Place "the fact that" at beginning of line before "the exploitation".
2515	4053	11	Delete comma and insert "from" after "question". Place comma after "or not" and after "things".
2516	4053	12	Change "did to prepare Germany for aggressive war." to read "prepared Germany for aggressive war." End the paragraph here. Begin new paragraph with remainder of line changing it to read as follows: "I would certainly like to".
2517	4053	14	"major interest" should be "majority interest".
2518	4053	15	"purpose of that" should be "purpose or that".
2519	4053	21	Change "ample I think the Tribunal will mark" to read "ample, which I think the Tribunal will note,".
2520	4053	28	"apart of" should be "apart from".
2521	4053	30	"that is just the position" should read "that the position".
2522	4053	31	Change period to comma after "purposes". "raised" should be "raises".
2523	4054	1	Change entire line to read as follows: "for German troops. It indicates that the plans were that we conquer the". with quotation marks before "we conquer".
2524	4054	2	Delete "will" before "divide up".
2525	4054	3	"spoliation" should be "spoils".
2526	4054	4	Place quotation marks after "countries".
2527	4054	5	Change "that moment seizing an armament." to read "that moment the seizing was of armaments."
2528	4054	12	Last two words "were be" should be "was".
2529	4054	13	Change question mark to period after "discussed".

444
132

Item No.	Transcript Page	Line(s)	Proposed Correction
2530	4054	19	Last two words "from a" should be "form a".
2531	4055	1	"lease" should be "least".
2532	4055	10	"for profit purges," should be "as usufructuary,".
2533	4057	17	"through the monopoly" should be "for the monopoly".
2534	4058	4	First two words "With what" should be "With that".
2535	4059	6	Delete first three words "when taken beside".
2536	4059	7	"indicates" should be "indicate".
2537	4059	31	"would by" should be "would be".
2538	4060	5	"should be kept" should be "will be kept".
2539	4060	19	Place comma after "policy".
2540	4063	13	Capitalize first letters in the words "Soda", "Caustic", and "Alkalies". Add "(Soda-und Aetzalkalien-Gut G.m.b.H.)." at end of line.
2541	4064	17	Insert "the" before "affiant Struss".
2542	4066	16	Change comma to period after "camps". Begin new sentence with following word "Most".
2543	4066	17	Place comma after "camps" and change comma to period after "you say". Begin new sentence with "Could that be".
2544	4066	31	Change "were given" to "were constituted".
2545	4068	19	Change last word "lecture" to "report".
2546	4069	15	First word "considering" should be "concerning".
2547	4069	16	Delete second word of line "that". Change comma to period after "question" and delete last word of line "and".
2548	4069	17	Begin new sentence with first word "What". Delete "more than any other and".
2549	4069	28	Change "question him as to" to read "counsel question the witness as to".
2550	4071	4	Insert "the" before "Main Camp".

44
133

Item No.	Transcript Page	Line(s)	Proposed Correction
2551	4071	12	Change "lecture" to "report".
2552	4073	29	Second word "that" should be "there".
2553	4078	11	"the affiants are" should be "the affiant is".
2554	4078	14	"their wishes." should be "his wishes."
2555	4078	31	"the Defense would be" should be "the Defense is".
2556	4080	25	Insert "the" before last word "Auschwitz".
2557	4081	14	Insert "asked" after "repeatedly".
2558	4081	22	Place comma after "complement".
2559	4084	20	Change "of the documents were lost." to read "of Bertrams were lost."
2560	4084	24	"TECHLESS" should be "CROSS".
2561	4090	6/7	Change "than what the Prosecution can do." to read "than the Prosecution can."
2562	4094	14	Place quotation marks after "investments".
2563	4094	18	Change comma to period and place quotation marks after "question". "the words" should be "The word".
2564	4095	14	"708" should be "706".
2565	4095	30	"32,2" should be "23,2".
2566	4096	2	Change comma to period after "Office". Begin new sentence with following word "With".
2567	4096	20	"1007" should be "100.7".
2568	4096	31	Insert "for stabilizers were made" after first word "investments".
2569	4099	28	"as you have not" should be "as you have noted".
2570	4100	12	"that line on" should read "that first line of".
2571	4100	32	Delete third word "a".
2572	4102		Correct pagination of page numbered 4102 on which last two lines begin the reply of THE PRESIDENT to Mr. Sprecher is 4101.
2573	4102	30	Insert "been" after "not have".

44
(134)

Item No.	Transcript Page	Line(s)	Proposed Correction
2574	h104	10	"a year" should be "the year".
2575	h106	17	"laborator" should be "laboratory".
2576	h107	13/14	Between lines 13 and 14, insert: "A: I can remember that in all cases, the Metallgesellschaft was the driving force to keep the quota."
2577	h108	7	"10007" should be "NI-10007".
2578	h109	12	"on here." should be "in here."
2579	h109	21	Insert "it" before "was a little".
2580	h111	19	"10008" should be "NI-10008".
2581	h112	26	Change "settlement" to "housing".
2582	h115	15	Change entire line to read "From the point of view mentioned, as to the witnesses who testify".
2583	h115	16	Place "only" at beginning of line before "as to opinions".
2584	h115	22	"Lenger" should be "Gengyel".
2585	h118		Correct pagination of page numbered h117 the last line of which is a question to the witness reading "What groups are they?" should be h118.
2586	h118	14	"informati" should be "informal".
2587	h119	26	Delete "to be included".
2588	h120	29	"German" should be "Germany".
2589	h120	30	"themselves" should be "herself".
2590	h120	31	"they consumed" should be "was consumed".
2591	h123	1/2	Insert "A. Yes." between lines 1 and 2.
2592	h123	14	Add "for" at end of line after "for instance,".
2593	h123	21	"of explosives" should be "for explosives".
2594	h124	25	"NI-10595" should be "NI-10010".
2595	h127	17	"is impossible" should be "is not impossible".
2596	h128	1	"sild" should be "silk".
2597	h128	15	Add "the" at end of line after "state of".
2598	h129	2	"613, 613" should be "612, 613".

44
175

Item No.	Transcript Page	Item(s)	Proposed Correction
2599	L129	27/28/29	Delete entirely as repetition.
2600	L130	7	Change "account these figures that" to read "account that in regard to these figures for".
2601	L130	8	Delete first word "in".
2602	L132	2	"568" should be "658".
2603	L132	6	Change entire line to read "and with it the dependency of the Wehrmacht which you have expressed in percentage figures?"
2604	L132	9	"and no concerning" should be "and concern".
2605	L132	22	"of the Farben" should be "of Verwertchemie".
2606	L133	17	Delete "in it" after "speak".
2607	L133	25	"which had a five per cent share in Farben's stock." should be "in which Farben had a 50 % share."
2608	L134	6	Delete "it certainly isn't correct".
2609	L134	7	Delete "in one case".
2610	L134	9	"production of figures" should be "production figures".
2611	L134	10	"1933 to 1945 or 1937 to 1943," should read "1932 to 1945 and for the years 1937 and 1943,".
2612	L135	10	Place comma after "record" and insert after it "page 1917 of the English Transcript."
2613	L135	20	Change "were determined" to "were found".
2614	L135	21	"on hand of" should be "in".
2615	L140	9	"are economic," should be "were economic,".
2616	L142	10	Delete "up" before last word "from".
2617	L143	30	Insert "for trials" after "40,000 tons".
2618	L144	2/3	Change "on the state of I.G.'s consideration in regard to the further" to read "from the standpoint of I.G. a further".
2619	L144	4	Insert "was planned" after "Buna" and before the question mark.
2620	L145	32	"You may answer" should be "you may ask".

44
136

Item No.	Transcript Page	Line(s)	Proposed Correction
2621	L147	11	"participating" should be "particularly".
2622	L147	30	"figure" should be "figures".
2623	L148	24	Delete first two words "working for". Place comma after "Reich".
2624	L148	25	"Verdingen" should be "Uerdingen" and place comma after same word.
2625	L148	32	Last word "operate" should be "operated".
2626	L149	6	"estimate" should be "estimated".
2627	L149	11	"Teichseigen" should be "Reichseigen".
2628	L149	26	Second word "were" should be "was".
2629	L150	1	"contention" should be "computation".
2630	L151	24	Delete "whether".
2631	L152	19	Place comma after "1940" and delete next word "that".
2632	L152	31	Place comma after "has" before last word "actually".
2633	L153	23 & 25	"Verwertungschastie" should be "Verwertichemie".
2634	L153	24	Insert "have" after "that I".
2635	L153	25	"that I was concerned." should be "what it concerned."
2636	L155	21	"It is no" should be "There is no".
2637	L157	25	"It shall now get" should be "It has now".
2638	L162	3	Change period to comma after "is given" and continue sentence changing "The witness" to "a witness".
2639	L163	8	Insert "that" after third word "ask".
2640	L163	9	"Tribunal" should be "Tribunals".
2641	L164	7	Delete last word of line "underneath".
2642	L164	8	Insert "count" after first word "membership".
2643	L167	5	"indicates a membership" should be "indicates SA membership".
2644	L157	18	Add "Year" after last word of line "Four".

4/4
137

Item No.	Transcript Page	Line(s)	Proposed Correction
2645	L167	30/31	Delete as repetition "otherwise known as the Keppler Circle of Friends, because Keppler Circle of Friends,".
2646	L168	4	"cs" should be "is".
2647	L168	10	"in this means" should be "by this means".
2648	L168	11	"night" should be "might".
2649	L168	19	"NI 6025" should be "NI 6025 F".
2650	L168	30	"about the Dresdner Bank" should be "of the Dresdner Bank". "SS Bank" should be "ES Bank".
2651	L169	6	"NI-299" should be "NI-399".
2652	L169	17	"were made" should be "was made".
2653	L169	23	Place period after "membership" at end of line.
2654	L169	24	Place "The" before first word "statement". "not one declined" should be "no one declining".
2655	L170	14	"accounts" at end of line should read: account "S"
2656	L170	22	"requested to" should be "requested for". Insert "were" before last word "only".
2657	L171	8	"Kranefull" should be "Kranefuss".
2658	L172	23	"does" should be "did".
2659	L173	4	Delete "one".
2660	L173	13	"Insofar as Counsel can" should be "In so far as possible, Counsel should".
2661	L173	31	Insert "to" before last two words: "the statements".
2662	L173	32	"of Heydrich had," should read "about Heydrich who,".
2663	L174	12	Delete "it's" at end of line.
2664	L174	13	Begin new sentence with "Now what we are". Delete "is" after "about".
2665	L175	5	Insert "was liquidated" after second word "that".
2666	L175	9	Place comma and "NI-12398 and NI-12399," after "documents".
2667	L175	10	Delete "12401,".

44
138

Item No.	Transcript Page	Line(s)	Proposed Correction
2666	4175	28	Change semi-colon to comma after first word "press".
2669	4175	29	"to show what" should be "to show that".
2670	4176	3	"which everyone" should be "that everyone".
2671	4176	4	"knew about," should be "knew about this,".
2672	4176	6	Last two words "is this" should be "is that this".
2673	4176	17	"defendants" should be "defendant's". Last three words "by the individual" should be "as an individual".
2674	4176	24	Change comma to period at end of line after "now".
2675	4176	25	Change "as NI-12398 and may" to read "NI-12398 may".
2678	4179	7	"Art. 7" should be "Art. 9". (Be sure this change is made in line 7 and not in line 8).
2677	4180	2	"In time" should be "Indeed".
2678	4180	3	Place comma after third word "which" and change next word "is" to "if". Change period to comma after "defense" and delete next word "it".
2679	4180	21	Insert "has" before "exercised".
2680	4180	22	Change "promote" to "present".
2681	4181	3	Delete first word "that,".
2682	4181	4	Insert "that" before "we do consider".
2683	4181	5	Change "satisfactory" to "important". Change "and adjective" to "of adjective".
2684	4181	6	Change first word "passes" to "touches". Change last word "in" to "and".
2685	4181	16	"1945" should be "March 1944".
2686	4181	18	Place quotation marks before "has always".
2687	4181	19	Place quotation marks at end of paragraph.
2688	4183	27	Change "like marking" to "like to mark in".
2689	4184	8	Change "to have more support" to read as follows: to have "moral" support.

44
(139)

Item No.	Transcript Page	Line(s)	Proposed Correction
2690	4185	25	"1944" should be "1934".
2691	4189	29/30	"by private industry;" should be "by the German Labor Front."
2692	4191	4	"the subject to" should be "and subject to".
2693	4191	12	Insert "represents" after "payment". Also insert "subtracted" after "usually".
2694	4194	8	Add "in the affidavit." after "covered" at end of paragraph.
2695	4194	30	Add "so that" at end of line after "examination".
2696	4197	32	"possible" should be "possibly".
2697	4200	20	"pass that up" should be "pass those up".
2698	4203	16	Delete last word of line "and".
2699	4203	24	First two words "of you," should be "of yours,".
2700	4205	12 & 28	"NI-3999" should be "NI-399",.

4/4
140

Item No.	Transcript Page	Line(s)	Proposed Correction
2701	4213	3	Change line to read "inmate be it even that a punishment had been ordered against him?"
2702	4214	23	Third word "now" should be "no".
2703	4217	13	Place question mark after "Commitment" and delete "which you gained?"
2704	4218	12	Change second word "the" to "a".
2705	4219	26	Change second word "then" to "you". Also change "move them" to "move you".
2706	4220	11	Add "that" at end of line after "matter of course".
2707	4221	33	Add "I. Yes." at bottom of page after line 33.
2708	4224	1	Insert "that" after "know". "the" should be "those".
2709	"	31/32	Delete entire line. Repeated on next page.
2710	4225	1	Delete "not" before "recall".
2711	"	5	"then arranging" should be "in arranging".
2712	"	6	"turned to a men" should be "turned to a man".
2713	"	7	Place comma after "also".
2714	"	10	"but is" should be "but it".
2715	"	12	Delete "and" before last word "had".
2716	"	14	Insert "or" after "whether".
2717	"	16	First word "gentlemen" should be "gentleman". Place period after "visit" at end of line.
2718	"	17	Begin new sentence with first word "However".
2719	4227	12	Insert "Fangelan," after first word "fuehrer".
2720	4232	11	Delete "see" after "witness".
2721	"	22	Second word "and" should be "at".
2722	4233	16	Insert "objection" after "we have no". Begin new sentence with "May we".

44
141

Item No.	Transcript Page	Line(s)	Proposed Correction
2723	4236	4	"over six weeks." should be "every six weeks."
2724	4239	4	"page 15 of the English" should be "page 25 of the German."
2725	"	5	"23" should be "22". Place quotation marks before "by order".
2726	"	9	Change quotation marks to single quote before "Department".
2727	"	10	Place single quote after "Research" and before the quotation marks.
2728	4244	20	"page 15 of the English," should read "page 42 of the English book 84"
2729	"	21	fourth word "to" should be "through". Place period after "entries" and delete "of the German."
2730	"	26	Delete "January, 1942 and 5 January"
2731	"	27	This line should read as follows: "MR. JENSEN: 2 January 1942 and 5 January 1942, I believe is on there."
2732	4244	28	Change "While January," to read "here 5 January."
2733	4246	2	Place quotation marks before "The Defense" at beginning of paragraph.
2734	"	26	"I should not say" should be "I would say".
2735	"	27	Delete "not" after "page".
2736	4248	20	Place comma after "basis" and delete "than where".
2737	"	21	Second word "may" should be "can".
2738	4249	25	"German" should be "English".
2739	4250	7	"3 January" should be "6 January".
2740	4252	8	"Page 1" should be Page 2".
2741	"	23	"Page 3" should be "page 2".
2742	4254-4263		These numbers not used. Page 4253 is followed by Page 4264.
2743	4264	5	"on the fact" should be "on the face".
2744	4267	5	"the," should be "then,".

44
(142)

Item No.	Transcript Page	Line(s)	Proposed Correction
2745	4267	24/25	Place period after "Book 11" and delete "and in Document Book 84".
2746	"	29	"Volume 84; page 1" should be "Volume 11, page 72".
2747	4268	7	First word "Hoerlein" should be "von KSI-RISM".
2748	4271	24	"Frenchment" should read "Frenchmen were".
2749	4272	24	"You were there," should be "You were then".
2750	4276	10	Change last three words "is Dr. Boes" to read "Dr. Boes is not".
2751	"	11	Change "and not Dr. Ekarius?" to read "but Dr. Ekarius." (Deleting question mark).
2752	4281	4	Insert "orders of" after first word "to".
2753	"	22	"AGE Group" should be "Age Group". (Twice).
2754	"	24	As above.
2755	4282	26	Change "worked for 12 hours again, etc." to read "worked for 12 hours, rested for 24 hours, and then worked for 12 hours again, etc."
2756	4283	27	"1500" should be "1600".
2757	4284	7	"reste" should be "remains".
2758	"	16	Add "when" at end of line after "and".
2759	4286	8	"Mr. President" should be "Witness".
2760	4292	27	Place comma and insert "in my opinion," after "and" and before "the Prosecution".
2751	4293	4	"dies" should be "does".
2762	"	26	Change "say something?" to "ask another question?"
2763	4295	20	Change "To remain voluntarily is very difficult" to read "Voluntarily? It is very difficult to say."
2764	4297	32	"I was never" should be "I never went".
2765	4298	31	Delete "not" once.

Item No.	Transcript Page	Line(s)	Proposed Correction
2755	4303	4	"Do you call" should be "Do you recall".
2757	4303	26	"Mrs Oriol" should be "Mr. Oriol".
2758	4304	1	Insert "in" after "referred".
2759	"	24	"depended" should be "depending".
2770	"	27	Insert "able" after "Mr. Vollbach".
2771	4306	15	Place quotation marks before and after "Pour Frossard".
2772	"	16/17	Change "Alchemist Engel iginpe troue et un volontaires et un chemiste. Lendor." to read as follows: "Equipe troute et un volontaires et un chimiste." (1 shift of 31 volunteers and one chemist.)
2773	4307	16	"went" should be "sent".
2774	4309	14	Place period after "affidavit" and delete following word "of". Continue the paragraph with following sentence "I would like now to offer WL-12396 as Prosecution Exhibit 1623. This is an affidavit of --".
2775	"	27	"mark" should be "Marok".
2776	"	28	"were to be found," should be "were found,".
2777	4310	7	Delete "number" before last word "which".
2778	"	24	"Fuller" should be "fuller".
2779	4311	16	Place "because" at beginning of line before "of two affidavits".
2780	4312	16	Change "that they are" to read "perhaps they were".
2781	"	29	"I have been asked" should be "I would then ask".
2782	4313	4	"to talk about" should be "to show".
2783	4315	2	"you" should be "yourself".
2784	"	11	Change "level" to "number".
2785	4316	26	Place comma at end of line after "Kogon".
2786	"	27	"simply" should be "simplify".

44
(14)

Item No.	Transcript Page	Line(s)	Proposed Correction
2787	4318	1	Insert "as to what" after "agreed".
2788	"	3	"either one," should be "either one of you,"
2789	"	21	Place period after "affidavits". Begin a new sentence with "Please".
2790	4319	11	"Kopen" should be "Kogon".
2791	4320	3	"Last two words "the little" should be "a little".
2792	4326	29	"Document 265" should be "Document NO. 265".
2793	4332	7	Place period after "1834" and delete the following words and submit at this time". Begin new sentence with "There is".
2794	4333	10	"June 17th" should be "June 15th".
2795	"	11	Insert "to" after "deliveries".
2796	4334	6	"NL-1246" should be "NL-12246".
2797	"	17	After line 17 and before line 18, insert the following: THE PRESIDENT: Is this sufficient or do you wish a further explanation, doctor? Dr. HALPER: Thank you. That suffices. Mr. SPEECHER: Can we enter it as an Exhibit? THE PRESIDENT: Yes, it is an exhibit. MR. MINSKOFF: Now, we offer document NL-12247 as Prosecution Exhibit 1674. This document consists of various letters and we submit them only to point out that further experiments were made with I.G. products in the Lehmann-Faciue Clinic for Mental and Nerve Diseases. MR. PRIBILLA: Mr. President, this document, NL-12247, Exhibit 1634, composed of three letters, is set out in the index in three paragraphs. I ask that especially large question marks be placed beside each of the three letters in the index. In the letters there is nothing to indicate that this concerns inmates of concentration camps, but something entirely different, a general observation of typhus patients.
2798	4335	24	"fact" should be "face".

44
145

Item No.	Transcript Page	Line(s)	Proposed Correction
2799	4336	6	Insert "in" before "all these", Delete "where".
2800	4337	14	Change "that a pattern is shown" to read "to show a pattern".
2801	4338	7	"show" should be "shows" (twice). Last word "were" should be "is".
2802	"	22	"When a man" should be "But when a man".
2803	4341	11	Place quotation marks after "stage." and add after it "And farther down:".
2804	"	27	Place comma after "noted".
2805	4342	4	"condition" should be "kind". Delete "III" after "experiment".
2806	4343	6	"From index" should be "From the index."
2807	4344	1	Place comma after "text".
2808	"	22	Change last two words "the course" to "because".
2809	"	24	Change period to comma after "throughout" and continue sentence with "he was".
2810	4345	8	Add "be" at end of line after "it will not".
2811	4346	10	"It's" should be "It".
2812	4349	19	"NL-12445" should be "NL-12448".
2813	4350	2	"be pointed out" should be "the former pointed out".
2814	"	3	Add "that" at end of line after "fact".
2815	4352	8	Place comma at end of line after "testify to".
2816	"	9	First word "would" should be "were".
2817	"	15	Last two words "is processing" should be "is being processed".
2818	"	16	"and will make" should be "and will be made".
2819	4353	4	"whether he died" should be "whether they died".
2820	"	8	"caused persons" should be "caused a person".

444
(148)

Item No.	Transcript Page	Line(s)	Proposed Correction
2621	4354	13	"correction" should be "corrections".
2622	4356	28	"1664" should be "1646".
2623	4365	18/19	Insert the following between lines 18 and 19 "were not competent to assign them. We had to go to Berlin and apply".
2624	"	20	Delete first three words "were to Berlin,"
2625	"	21	Change "discussions" to "Construction Conferences".
2626	4375	19	Insert "by" after first word "submitted".
2627	4380	10	"outrated" should be "outvoted."
2628	"	22	"that you frequently" should be "that you have frequently".
2629	"	29	Delete comma at end of line after "construction".
2630	4381	25	Insert "of" after "development" and before "Farben".
2631	"	29	First word "case" should be "cast".
2632	4382	3	Insert "in spite of" after "too small,".
2633	"	10	Place comma after "himself".
2634	4383	20	Insert "it" after "legally".
2635	4385	1	Insert supplementary line before Line 1, reading as follows: THE CHAIRMAN: The Tribunal is again in session.
2636	4386	10	Place comma after "Exhibit 1740".
2637	4387	12/13	Delete last two words of line 12 "get through" and all of line 13 as repetition.
2638	4389	9	"and notice" should be "and as a notice".
2639	4391	12	"is the case" should be "in the case".
2640	4393	3	"plant" should be "plan".
2641	4396	1	Delete "That is," and begin new sentence with "As to any".

Item No.	Transcript Page	Line(s)	Proposed Correction
2842	4396	4	Place comma after first word "knowledge". Delete next two words "as to" and also delete comma after following word "those".
2843	4401	12	"witness" should be "witnesses".
2844	4405	1	Insert supplementary line before line 1, to read as follows: THE MARSHALL: The Tribunal is again in session.
2845	"	5	"I am no clear" should be "I am not clear".
2846	4406	30	"Let me ask you a question" should be "Let me answer your second question".
2847	4407	23	"Other methods" should be "Another method".
2848	4409	10	"Brod" should be "Broad".
2849	4410	15	"NI 6361" should be "NI 6363".
2850	4411	14	Delete comma after "Werke".
2851	4412	4/5/6	Change order of sentence beginning in middle of line 4 to read as follows: "The so-called Dagesch firm, which is a German company for combatting vermin, is supposed to have influenced Tosta."
2852	4413	4	Delete "and otherwise,".
2853	4418	1	Last three words "is the case" should be "in the case".
2854	"	11	"of the firm" should be "in the firm".
2855	4420	12	"Fun," should be "Funk,".
2856	4421	1	"cause" should be "case".
2857	"	7	Delete "it on".
2858	4423	26	"it it please" should be "if it please".
2859	4424	20	"end of the book?" should be "end of the document?"
2860	"	30	Delete second word "not".
2861	4427	23	Change "grammatical" to "numbered".
2862	4432	5	"Well, when" should be "Well, then".

44
(148)

Item No.	Transcript Page	Line(s)	Proposed Correction
2653	4432	26	Change "overruled" to "sustained".
2654	4434	20	Delete "as" before last word "having".
2655	4437	9	Delete comma after "Stabelciter". "Hess's," should be "Hess's adjutant,".
2656	4439, 4440, 4441		The data on pages 4439, 4440, & 4441, should be 26 Nov. 1947.
2657	4439	14	"On the fact" should be "On the face".
2658	"	21	Place quotation marks after "transcript,".
2659	4441	2	Place quotation marks after "Czechoslovakia,".
2670	4446	10	Place period after "All of them are." Begin new sentence with "However,".
2671	4450	3	Insert "number" after "exhibit". "NI-;2627" should be "NI-12627".
2672	4452	3	"Exhibit 1918" should be "Exhibit 1818".
2673	4455	13	Last two words "of making" should be "by making".
2674	4456	28	Last four words "has to the witness" should be "has been by the witness".
2675	"	29	Add "put" at end of line after "were to".
2676	"	30	Delete "put" before "underneath".
2677	4458	27	"left this" should be "left Lärnberg".
2678	4459	8	"Exhibit 1831" should be "Exhibit 1821".
2679	"	21	Delete last word of line "the".
2680	"	22	Change entire line to read "that is, the Military Economic Armament Office of the GSW, from".
2681	4461	4	Insert "in" before last word "sufficient".
2682	4463	6	First word "what" should be "which".

444
(149)

Item No.	Transcript Page	Line(s)	Proposed Correction
2883	4464	11	Place quotation marks before and after "To Prok. Kuhl-Schatten, Dipl. Ing. Michaelis,".
2884	"	17	"NO.269" should be "No.269"
2885	"	18	Change "Official Newspaper" to "Reichsanzeiger".
2886	4465	3	Change "November" to "February".
2887	"	7	"I will" should be "It will".
2888	"	13	Place quotation marks after "monthly with".
2889	4466	6	Place comma after "Pension".
2890	4467	18	"1475" should be "1457".
2891	4468	11	"On page 6" at beginning of line should be "On paragraph 6".
2892	"	18	"in to." should be "in toto."
2893	4469	16	Change "NI-12114 is not offered and should be" to read "NI-12116 offered and it should be".
2894	4470	21	Place period after first word "Pribilla".
2895	4472	17	First word "Also" should be "So".
2896	4476	3	"handwiring" should be "handwriting".
2897	4478	13	Delete "the" before "two documents".
2898	4483	1	Place "8" at beginning of line before "Gerhard Ritter" and "9," before "the affidavit".
2899	4486	22	"the latter affidavit," should be "the last affidavit".
2900	4489	14	"memorandums" should be "memoranda".
2901	"	28	"abstentivo" should be "substantivo".
2902	4491	4	Change period to comma after "his absence", and continue sentence with "we shall".
2903	"	5	Insert "is given for him" after "opportunity".
2904	"	25	Delete "I am sure that" after first word "if".

44
(150)

Item No.	Transcript Page	Line(s)	Proposed Correction
2905	4492	7	"so that may" should be "so that you may".
2906	"	31	Delete last word of line "of"
2907	"	32	Change first two words "getting the" to read "in respect to the"
2908	4494	9	"examination." should be "examination is being conducted.".
2909	"	11	Insert "the" before "witness stand".
2910	"	14	"considoreble" should be "considered".
2911	"	15	"affiante" should be "affiant.".
2912	"	22	Insert "recess" after "it would".
2913	"	24	First word "contemplation" should be "completion".
2914	4498	9	Change "as the presiding" to read "and that the presiding".
2915	"	12	Change period to comma after "record" and continue the sentence with "we have".
2916	4503	9	Delete comma after "general view".
2917	"	10	Delete comma after first word "on". Change "in fact," to "it is a fact," and add "that" at end of line after "example".
2918	4504	21	Change "there was no such thing as the SD." to read "that was not at all for the SD."
2919	"	26/30	"Inland" should be "within Germany".
2920	4512	24/25	Between lines 24 and 25, insert THE PRESIDENT: Would you have a complete list of outstanding witnesses provided for us?
2921	"	25	Change "THE PRESIDENT:" to read "MR. SPEAKER:"
2922	4516	5	Change "executive presiding judge matter" to read "executive matters of the presiding judge".

Item No.	Transcript Page	Line(s)	Proposed Correction
2923	4516	13	Place quotation marks after first word "(pro)duced". Delete quotation marks after "1940".
2924	4519	18	Place period after "true" and delete "though".
2925	"	22	First word "from" should be "for".
2925	"	26	Place single quote and quotation marks after "5000". Insert "then" after dash and place quotation marks before "7800 tons".
2927	4520	4	Last two words "was conferred" should be "we conferred".
2928	"	7	"That those conversations" should be "These conversations".
2929	4523	32	"lit" should be "limit".
2930	4524	19	Place period after "correct" and delete "though".
2931	"	21, 30	"200 tons" should be "600 tons".
2932	4525	31	"of the plant" should be "of the plans".
2933	4526	21	"are finished" should be "was finished".
2934	4527	8	Insert "by" after first two words "to mean".
2935	"	13	"remark" should be "romark".
2936	4528	31	"35" should be "36."
2937	4536	10	"roeding" should be "reaching".
2938	4537	28	Delete first word "had". Also delete "following".
2939	4540	2	"No. 265" should be "NO-265".
2940	"	15	Change "Dr. Hoven" to "Dr. Kogon".
2941	4541	26	Change "from what" to "that which".
2942	"	27	First word "it" should be "which".
2943	"	28	"is not in point," should be "is in point." Add "not" at end of line after "It did".
2944	"	29	"was in proper" should be "was not in proper".

444
(152)

Item No.	Transcript Page	Line(s)	Proposed Correction
2946	4542	26	"29 January, 1941" should be "29 December, 1941".
2946	4543	6	Delete "said" before last word "in".
2947	"	7	Insert "said" after third word "case".
2948	"	14	First word "Hoven" should be "Kogon".
2949	4547	9	"Kunin" should be "Kounino".
2950	"	25	"This completes" should be "This reduction agrees with".
2951	4549	11	Delete "counsel wants to be heard".
2952	4550	7	Change "chemical" to "pharmaceutical".
2953	"	14	Insert "it" after "consider".
2954	"	18	"cumulative" should be "cumulative".
2955	"	24/25	"cumulative" should be "cumulative".
2956	4552	17	Place commas after "document" and after "affidavit".
2957	"	21	Delete "it" before "can load".
2958	"	22	Change "see" to "read".
2959	4557	16	"81" should be "Book 81".
2960	4558	12	Insert "the" after "true that" and before "kitchen".
2961	"	13	Insert "for the inmates," after "administered".
2962	4559	17	"civilians who" should be "civilian foreman who".
2963	4564	1	Place period after "irrelevant" and delete "in this connection".
2964	4567	12 / 13	Change "as in the preliminary step after they had been constructed" to read "as in the construction of the first plant."
2965	"	27	"version" should be "conversion".
2965	4580	5	Delete last word "not".

44
(153)

Page No.	Transcript Page	Line(s)	Proposed Correction
2957	4587	17	Change "transferred" to "covered".
2960	4588	13	Delete "preliminary" once.
2969	4592	13	"not redirect" should be "no redirect".
2970	4593	15	"refer" should be "defer".
2971	4594	14	"without" should be "within".
2972	4595	2	Delete comma after "Schlotterer". "is available" should be "are both available".
2973	4597	6/7	Delete as repetition "and I will expect a further report very shortly".
2974	4600	28	Place comma after "should".
2975	4601	23	Place quotation marks at beginning of line before "I remember".
2976	4602	2	Place quotation marks at end of paragraph.
2977	4603	11	"is not in order." should be "is now in order".
2978	"	33	Change "I was to speak, the Deputy" to read "I was, so to speak, the Deputy".
2979	4605	28	"Lessing" should be "Blossing".
2980	4606	1	"as available." should be "and available."
2981	4612	12	Change comma to period after first word "Himmler".
2982	4613	15	"that is now" should be "that it is now".
2983	4614	4	"we thought, he had as directed." should be "we thought he had been directed."
2984	"	13	Delete comma after "about".
2985	4615	27	"For Labor of Ministry" should be "Gau Labor Ministry".
2986	4618	3	"The Prosecutions, of course," should be "The Prosecution's objections, of course,".
2987	4621	29	Change "industrialists" to "people".

44
(15)

Item No.	Transcript Page	Line(s)	Proposed Correction
2988	4627	32	Change first word "they" to "we".
2989	4628	26	Change first word "done" to "also".
2990	4630	26	First word "planning" should be "planting".
2991	4639	1	"Then, it is not" should be "That is not".
2992	"	6	Change "In this government or with Goering" to read "And at this point I would like to hear what trains of ideas were standard on the part of this government or with Goering".
2993	4640	14	Delete quotation marks after "State".
2994	"	15	Place quotation marks after "Reich".
2995	4641	4	First two words "our principle" should be "principally".
2996	4644	17	Insert "and so forth, end" after "Your Plan,".
2997	4645	19	Change "change" to "ruling".
2998	4646	18	"if he were used" should be "if they were used".
2999	4647	12	"a special" should be "especially".
3000	"	27	"HI hhh" should be "HI hho".
3001	4648	22	Change "the surface; this is apart" to read "the surface is apart".
3002	4649	3	After line 3, insert heading "RE CROSS EXAMINATION"
3003	"	31	Insert "and developed" after "brought".
3004	4653	Headline	"REDIRECT" should be "RE CROSS".
3005	4654	18	"I make no" should be "I made no".
3006	4659	9	"Briefs are" should be "Brief is".
3007	4660	7	First word "now" should be "not".
3008	4661	25	"in individual" should be "in an individual".
3009	4662	3	Delete "either" at end of line.

4/4
155

Page No.	Transcript Page	Line(s)	Proposed Correction

3010	4662	10	"fact of the affidavits," should be "face of the applications,".
3011	4665	28	"that they should" should be "that there should",
3012	4668	27	"then it appeared" should be "when it appeared".
3013	4672	19	"fundamental" should be "fundament".
3014	"	20	"the document is" should read "that the documents are".
3015	"	21	Delete "to be" after "the charges".
3016	4677	39	Insert "such" before "position".
3017	4680	9	"Only if" should read "That this is the case is evident if".
3018	"	22	"is not being" should be "will not be".
3019	4681	11	"in view of time" should be "in view of the time - Delete comma after "time" and place one at end of line after "we have".
3020	"	21	"The motive" should be "If the motive".
3021	"	26	Delete "being" before "adhered".
3022	"	28	"there are" should be "those are".
3023	4686	1	Delete "is" after "that".
3024	"	2	"first" should be "fifth".
3025	4690	17	"that it has not" should be "and it has not".
3026	4695	8	Change "various interests to German parts which" to read "various German interests which".
3027	4701	5/6	"exportation" should be "exports".
3028	"	7	As above.
3029	"	10	Delete "tendencies" and place quotation marks before "in the East" - Change period to comma at end of line.
3030	"	11	Change "Quite generally speaking" to read "an insertion for clarity". Place quotation marks before "from which".

444
(156)

Item No.	Transcript Page	Line(s)	Proposed Correction
3031	4701	13	Place quotation marks and change comma to period after "created".
3032	4702	24	Change first word "whether" to "that".
3033	4703	3	Complete this paragraph with the following sentence "May I have the permission of the Commissioner to present this document to the witness?"
3034	4704	14	First word "exhibit" should be "offered".
3035	"	25	First three words "to also be" should be "to be also".
3036	4706	3	Change "In the official information of the time and in the" to read "In the then current official reports and".
3037	"	4	Delete "at the time".
3038	"	14	Change "if you want to supplement the 'official' to read as follows: unless you apply "official" to both
3039	"	15	Place quotation marks before "reports" and change second word "by" to "and".
3040	"	18	"the the noun" should be "to the noun"
3041	"	21	Place quotation marks after "official".
3042	"	22	"clears us" should be "clears up".
3043	4707	1	"At late" should be "As late".
3044	4708	4	"I would" should be "it would".
3045	4709	23	"decided" should be "decide".

Munberg, 30 April 1948
Date

By *H. D. Sacher*
D. A. Sprecher

for Telford Taylor
Brig. Gen. U.S.A.

By *H. R. Dix*
Dr. Rudolf Dix

for DEFENSE COUNSEL
- CASE VI.

-156-

MILITARY TRIBUNALS

Nuremberg, Germany

UNITED STATES OF AMERICA

Against

FRANZ and Others (Case VI)

SECOND MOTION OF THE PROSECUTION
TO CORRECT THE ENGLISH TRANSCRIPT

FILED 13 Feb. 1948

Secretary General
for Military Tribunals
Nürnberg, Germany

The prosecution herewith moves that the Tribunal order that the corrections indicated below be made in the official mimeographed copies of the English transcript.

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
211.	676	2		Change comma to period after "Farben". Begin new sentence with "Legally". (Correction of item 211 of "First Motion of the Prosecution to Correct the English Transcript", dated 26 November 1947).
212	681	18		Change second verb "was" to "were".
213	684	6		Change "in the description" to read "at the discretion".
214	684	14-16		Delete all of lines 14 and 15 and through "technical committee" of line 16, and replace with the following: "believed that the production planning in one of the Plants or in a Works Combine conflicted, he likewise undertake his own measures on his own initiative. Furthermore, it is established that normally such steps did not have to be undertaken and that in general the diffi-

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
				culties in the various plants were brought before the various sub-committees of the Technical Committee and ironed out there."
215	584	18		"owned" should be "held".
216	584	23		Insert "that" after "Paragraph 30,".
217	584	25		Change "from" to read "except for".
218	584	28		Delete period at end of line (sentence continued on next page).
219	585	12		Change "again the communications" to read "again through communications".
220	585	18		Change "in order to keep the affairs of Farben on a unified plane." to read "the affairs of Farben were kept on a unified plane."
221	585	11		Change comma at end of line to period.
222	586	12		Change "to underline, your Honors, the uniforms" to read "This underlines, your Honors, the unified".
223	586	30		"technician" should be "technical".
224	587	15		Change "A summary of the Defendant of Page 124" to read "The summary of the Defendant ter Meer on page 124".
225	587	18		Change "affidavit ter Meer" to read "affidavit by ter Meer".

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
226	888	5		Change "there is a statement herein, except where" to read "the statements must remain since".
227	888	21		Delete period after "encrypts".
228	890	14		Change last word "see" to "for".
229	890	21		Change last word "and" to "and?"
230	891	18		"Dr. Tilder," should be "Dr. Silber,".
231	892	22		"this is" should be "these are".
232	892	6		"important" should be "importance".
233	892	19		"Verstant," should be "Verstand." with period after it to end the sentence.
234	893	21-22		Change period after "German" to comma. Change "Most of the basic matters which would be involved is most of the things" to read "and include most of the basic matters which are involved and".
235	893	26		"desiring" should be "deserving".
236	894	4		Change "Gypen" to read "Ludwigshafen-Oppen".
237	894	7		"which" should be "what".
238	894	24		"through" should be "throughout".
239	895	4		Change "and of the functions of the Working committee notices" to read "and of the functions of the Working Committee and notes".

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
240	695	5		Change "in effect the Verstand worked" to read "in effect did the Verstand's work".
241	695	7		"No notices" should be "No notes".
242	698	9		"O.A." should be "I.A."
243	699	6		"by" should be "be".
244	699	13		Change "principle works combine." to read "principal works combines."
245	700	29		"year" should be "date".
246	701	11		"that we" should be "than we".
247	702	8		Place quotation marks after last word "schedule."
248	702	9		"Eversengrube" should be "Fuerstengrube".
249	702	14		Change "the Anschwitz work" to read "that the Anschwitz work".
250	702	15		Change "planning to come" to read "belonging".
251	702	16		Delete comma after the second "Main Group I".
252	702	20-21		Change "there is going to be some reservations made." to read "some reservations are going to be made."
253	711	6		"any audit" should be "an audit".
254	712	30		Place quotation marks after last word "liable."

Item	Transcript	Page(s)	PROPOSED CORRECTIONS
No.	No.		
255	715	11	Change the following: <p>that the term "Betriebsfuhrer" of some significance to read as follows: That the significance of the term "Betriebsfuhrer" be indicated</p>
256	715	19	Change "that at page 4, about Fable's view" to read "on page 4, Frank-Fable's view".
257	715	8	Insert "meetings" after "committee".
258	715	8	Delete "as either".
259	715	7	Change period after "problems" to comma and continue sentence with "particularly".
260	715	8	"for industrial" should be "of industrial".
261	715	17	Change "also the defendant Mann," to read "also headed by the defendant Mann,".
262	715	19	"Frank" should be "Frank-Fable".
263	715	20	Change second word in line "both to "these".
264	715	21	Delete "neither or" at end of line.
265	715	27	"Frank" should be "Frank-Fable".
266	715	20	Change "problem is" to read "problems which have priority to".
267	715	26	Last two words "are connected" should be "is a connected".
268	715	7	Delete "underneath the defendant Schnitzler".

Item	Transcript	Page(s)	PROPOSED CORRECTION
269	719	14	Change "have been reconstituted with the" to read "has been reconstituted with the approval of the".
270	719	15	Change "and a conference" to read "as a result of a conference".
271	719	15	Change "bringing closer contact to" to read "bringing into closer contact".
272	719	29	"to say" should be "to point out".
273	720	2	Is new paragraph. Change "In 1937" to read "You will note that as early as the date of this meeting, in 1937.". Place period after "America". Begin new sentence with following two words "At the".
274	720	5	Change last word "members -" to read "members and".
275	720	6	Delete comma after "Vermittlungsstelle".
276	720	22	Delete third word "read".
277	720	25	Place semi-colon after "para 3;".
278	721	2	"determine" should be "deter".
279	721	8	First word "company" should be "companies".
280	721	13	"are deposits" should be "are deposits".
281	721	15	Change "so I say where a major point comes up." to read "and so I point out that where a major point ^{shall} comes up", omitting the comma after "up".

Item	Manuscript	Line(s)	PROPOSED CORRECTION
283	723	2.7	Change "which was the head to get together with VE discuss these matters." to read "which committee together with Vermittlungsstelle V was to discuss these matters."
285	726	18	Place comma after "instrumentality". Change next word "is" to "which was".
286	726	20	"dangerous form" should be "dangerous free".
288	726	20	Change comma after "War" to semi-colon.
288	726	21	Change "as the instrumentality" to read "as to this instrumentality".
287	726	27	Change last word "dependent" to read "be dependent".
288	726	23	"of which was called" should be "of which a sub-commission called".
289	730	1	Insert "I was" before last two words "on the".
290	730	3	"relation" should be "relating". Place comma after "sub-commissions" and change "on other words" to "in other words".
291	730	5	Place comma after first word "factories".
292	730	22	"my anticipate" should be "may anticipate".
293	730	23	"alter" should be "later".
294	731	23	"merely" should be "merely".
295	732	19	Last word "differen ." should be "difference".

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTIONS
296	732	30	Change first word "tein" to "in".
297	732	31	"proceed" should be "predecessor".
298	732	4	"is nitrates" should be "for nitrates".
299	745	9	First word "open" should be "upon".
300	746	11	Second to last word "that" should be "what".
301	750	20	Delete third word "in".
302	751	16-17	Insert between lines 16 and 17 the following: "extent than in peacetime. Furthermore, pharmaceutical".
303	751	28	Change "because the demand" to read "because of the demand".
304	752	8	Change "objected to you?" to read "objected to by you?".
305	753	410	"expert" should be "expert".
306	757	18	"forget" should be "forged".
307	757	21	Change second word "is" to "it".
308	758	23	Change "procedure attached to" to read "predecessor of".
309	760	19	Delete "be" before "eliminate".
310	762	2	"and alliance" should be "an alliance".
311	762	14	"darting" should be "skipping".
312	762	15	Last two words "with all" should be "of all".

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
313	763	7-8		"concerned" should be "is concerned."
314	763	9		Change "we are dealing in connection with Count I. found" to read "in dealing in connection with Count I, we find".
315	763	16		Change "of correspondence to" to read "or correspondence with".
316	763	29		"evident" should be "evidence".
317	764	13		Place period after "Count II." and delete as repetition "and there is an alliance of Parties in actual conquest."
318	765	4		"inspectionary" should be "inspection or".
319	765	1		"item 5," should be "item 6,".
320	765	18		Delete "now" before "in connection".
321	766	22		Change "in that the Berlin office" to read "in that is the Berlin office".
322	767	10		"it will" should be "it is".
323	767	15		"there is" should be "where there is".
324	767	18		Change last two words "become to" to read "become clear to".
325	768	1		Place period after "Committee." Begin new sentence with "Although".
326	768	13		"nitric and" should be "nitrates and".
327	768	23		"I have noted" should be "are noted."
328	768	31		"Kluger" should be "Kagler".

44
166

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
329	769	7		"Eye-Staffs" should be "Dyestuffs".
330	769	14		"passign" should be "passing". "affidavit" should be "Affidavits".
331	769	21		Delete "that" before "paragraph".
332	769	32		"is was" should be "it was".
333	770	3		"department" should be "departments". Change "Your Honor, say" to read "Yours Honors say".
334	770	7		Place commas both before and after "Press Office". Change "the name because" to read "the name of Passage because".
335	770	15		Delete "are listed".
336	770	20		"was held" should be "were held".
337	770	26		Change first word "during" to "with". "ve though" should be "we thought".
338	770	28		"thinks" should be "things".
339	771	6		Change "functions in" to read "functions of WIPG in". "has been" should be "have been".
340	771	7-8		Change "to point out with this principle agency the Nazi party" to read "to point out that I.O. is dealing intimately with the principal agency of the Nazi Party".
341	771	9-10		Delete as repetition "and I.O. is dealing intimately".

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
342	771	10		Change the following: at the bottom: "hope to read: at the bottom that it is a hope.
343	771	12		"yourself" should be "yourselves". Delete quotation marks at end of paragraph.
344	772	8		"that may" should be "and may".
345	772	12		"upon the fact" should be "upon the face".
346	772	14		"it started" should be "and started".
347	772	25		Change "You are saying it would be at least a prima facie of" to read "That you are saying would at least be shown prima facie by".
348	772	30		"exhibit" should be "exhibits".
349	773	4		"I would" should be "It would". "to let" should be "to let".
350	773	8		"catch" should be "patch".
351	773	10		"some to these" should be "some of these".
352	773	17		"in sink" should be "in mind".
353	773	18		"in due time should" should read "in due time they should".
354	773	30		"to bring" should be "to bring". "of some of the" should be "to some of the".
355	773	31		Place period after "documents.". Begin new sentence with "At this time".

44
168

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
356	774	4		"I will" should be "We will".
357	775	28-29		Change "who have been according to Besseler were" to read "who have been indicted were, according to Besseler,".
358	780	21		"thru-translation" should be "the re-translation".
359	780	24-25		Change the following: "I attended meetings of the Commercial Committee (Kaufmannische Ausschuss) and on many occasions I attended meetings of the Working Committee." to read: "On many occasions I attended meetings of the Commercial Committee (Kaufmannischer Ausschuss)". . . Para. 5 ..
360 360	780	27		Change "translated in this case" to read "translated in the English". Place quotation marks after "Arbeits-Ausschuss,".
361	781	22		"put the policy" should be "guided the policy".
362	782	2		"was regular" should be "was a regular".
363	782	5		"interest of him" should be "interest to him".
364	782	12		Delete "not" before last two words "like to".
365	782	18		"has submitted" should be "had submitted".
366	784	20		Place quotation marks before "to establish".

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
367	796	21		Delete as repetition "and the explosive industry of B&O."
368	792	3		Change "at least Furber jointly" to read "at least various Furber plants".
369	792	22		Delete "with" before "the defendant".
370	793	8		"plan leaders" should be "plant leaders".
371	793	25		Change last word "be" to "is".
372	794	25		Change "in the affidavit," to read "in the Paulmann affidavit,".
373	796	7		"as exclusively" should be "not exclusively".
374	796	18		"held in by" should be "held by".
375	800	30		"the revealing" should be "then revealing".
376	801	14		"and unprecedented" should be "an unprecedented".
377	801	30		Change first word "of" to "at".
378	801	23		Change "here neighbors extended" to read "her neighbors extended".
379	802	3		"that is became" should be "that it became".
380	802	8		"of tremendous" should be "of the tremendous".
381	808	10		Change "was before" to "preceded".
382	809	3		Delete third word "where".
383	809	15		Place semi-colon after "favorable;". Last word "reserpye" should be "reserves".

Item	Transcript	Page	Line(s)	PROPOSAL CORRECTION
384	816	4-5		Place comma after "staff" and parentheses before "it will", in line 4 and after "Your Honors" in line 5.
385	816	7		"shown" should be "shows".
386	816	8		"was would" should be "who would".
387	816	27		Delete second "ill" as repetition.
388	817	7		"of his organization" should be "of this organization".
389	817	19		Last word "point" should be "points".
390	817	30		"Book," should be "Book 25,".
391	818	4		Change period after "page" to colon.
392	818	10		"may O" should be "may I".
393	818	11		Place dash after "Hitler says," and delete "and may I the German first."
394	821	16		Change "to forward to the Minister" to read "to forward a warning to the Minister".
395	821	18		"Furtherer" should be "Further".
396	825	14		"authority" should be "another".
397	825	18		Change "In this this article," to read "In this article,".
398	825	19		"May I" should be "may I".
399	825	27		Insert "previously" after "which I offered".

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
400	828	2		"unrestrict" should be "unrestricted".
401	829	2		"Ten Meer" should be "ter Meer".
402	829	5		Change comma after "presence" to semi-colon.
403	830	18		Change comma after "English" to semi-colon.
404	831	19		"EL-427." should be "Exhibit 427."
405	837	18		Change "taken itself" to read "taken by itself".
406	838	21		"Factories." should be "Company."
407	839	18		Change "in charge of research and development." to read "had taken over the Department of Research and Development."
408	840	8		Change "report by which" to read "report which".
409	842	17		Change "Chairman, Minister" to read "German Minister".
410	845	4		Delete "This".
411	848	2		"as explosives." should be "of explosives,".
412	849	26		Add "er" after "fern" at end of line.
413	851	4		"defendant." should be "defendants,".
414	855	18		Change "am not to" to read "am not going to".
415	861	19		"Basis" should be "Basic".
416	862	14		Delete "at the bottom -- ten".

Item	Transcript	Page	Line(s)	PROPOSER CONSTRUCTION
417	866	7		Delete quotation marks at end of line.
418	867	5		Delete "to" before "which".
419	867	26		"goes either" should be "applies to either".
420	868	19		Change "preferred that part" to read " "offered this other part".
421	868	20		"was made" should be "is made".
422	868	26		Change "point out the" to read "point out that the".
423	869	9		Delete "here".
424	869	13-14		Place period after last word in line 13. Delete first word "here" in line 14.
425	869	15		"as E. 140." should be "such as E. 140."
426	869	16		"or order" should be "or orders".
427	869	18		Delete "again" after "point".
428	870	8		"engines," should be "agents,".
429	872	12		Change "this fact certainly" to read "the fact that certainly".
430	873	14		Change "rights of the defendant" to read "right of the defendants".
431	873	17		Delete "in" before "nothing".
432	874	17		Change "(Field Marshall Von Rannochan.)" to read "(e.g. General von Rannochan)."
433	874	26		Insert "and" before "is given".

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
434	878	7		"concern" should be "concerning".
435	879	3		"clerical" should be "official".
436	879	21		"not yet rule" should be "not yet rule".
437	882	8		"want" should be "wants".
438	882	6		Delete "that" before "hearing".
439	883	15		Insert "that" before the last word "the".
440	884	2-4		Change "to substitute at the end of the last word of this paragraph" to read "to substitute the last word at the end of this paragraph." placing period after "paragraph." Change "by the word of" to "insert".
441	885	1		Change comma after "bank" to period and delete following word "namely".
442	886	6-7		Change "and his support is the industry." to read "and its support by industry."
443	888	15		Change "see the" to read "see that the".
444	890	3		"to defense" should be "through defense".
445	890	14-15		Change "that of the Legal Department a report" to read "under Legal Department that a report".
446	890	22		"bank" should be "busy".
447	891	26		Change "again in the chronological order Amshin the" to read "brings us in the chronological order to the".

Item	Transcript	Page(s)	PROPOSED CORRECTION
448	892	14-15	Change the following: of the Bush Plan that is the plan of 13 August <i>and for the</i> to read as follows: of the Bush Plan".... (that is the plan of 13 August)..... "and for the
449	893	15	Change "is the WASAS states." to "is WASAS."
450	894	21	"sign sentimental" should be "sign of sentimental".
451	894	30	Delete this last line. Repeated on page 895.
452	895	8	"document can" should be "document which can".
453	895	14	Place quotation marks before "No.".
454	895	21	Delete quotation marks before "Dr. Krunch".
455	895	23	Delete quotation marks after "Office.".
456	896	6-7	Delete all of line 6 and first two words "an error," in line 7.
457	896	15	Change last word "out" to "developed".
458	896	17 and 28 and 33	"gun power" should be "gun poster".
459	897	13	Change "which is exhibit 401." to read "Exhibit 400, which is in connection with Exhibit 401."
460	898	17	Change "March 1939 as the" to read "March 1939 was the".

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
461	899	18		Change "Czechoslovakia on 15 of March 1939." to read "Czechoslovakia, 15 March 1939."
462	906	27		Delete as repetition "and on page 180".
463	907	1		"before the second," should be "before the signature,". "Villikun" should be "Villuhn".
464	908	3		"are encrypts" should be "consists of encrypts".
465	909	5		Change "This document is referred to" to read "This document which is our Exhibit 401, PL-1301, is referred to".
466	909	20		First word "Vo" should be "Ho".
467	910	5		Change "the document" to read "the German document book".
468	911	25		Delete "XXI".
469	912	18		"Funbeal" should be "Funeral".
470	912	17		Second word "was" should be "was".
471	912	21		Change "a short note of" to read "in a short note".
472	913	21		Delete period after "defendant".
473	916	9-11		Enclose in quotation marks everything after "reading" to end of sentence and correct punctuation to read as follows: "Foreign labor recruited for Gobenham"... (which is Plenipotentiary General for Chemistry)...."must not be assigned for

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
				any other purposes."
474	916	21		Delete "showing" after "page."
475	919	2-4		Place "self-responsibility of industry" within single quotes and capitalize as follows: "Self-Responsibility of Industry"
476	921	16		"commission" should be "commissioner."
477	922	9		Change period after "page 83" to comma.
478	924	17		"will be" should be "will we".
480	926	17		Change "in as page 491" to read "in as Exhibit 491".
481	928	2		Fourth word is "competence."
482	928	4		Last word is "authorities."
483	927	5		"The Exhibit 408," should be "The Exhibit 503,".
484	927	18		Place period after "and so on".
485	927	24		"Birn" should be "firm".
486	927	29		"methand" should be "methanol".
487	928	2		"of these" should be "of this".
488	928	18		Delete entire line as repetition.
489	928	19-20		Change "routed the Vermittlungsstelle V" to read "routed to the Vermittlungsstelle V." with period after "V" Begin new sentence with "Just" in line 20.

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
490	939	17		"Ministry Armaments" should be "Ministry of Armaments".
491	940	3		"Committees" should be "Committee".
492	940	11		"hojd" should be "hold".
493	940	13		"joited" should be "pointed out".
494	940	25		"names" should be "names".
495	940	31		"defendant" should be "defendants".
496	943	1		"reference" should be "refer".
497	943	8		"officiays" should be "officials".
498	943	23		Last word "filling" should be "filing".
499	943	24		"possible emphasis" should be "incorrect emphasis".
500	943	27		Last word "any" should be "anything".
501	943	14		"simply point" should be "single point".
502	944	23		Change last word "Plan" to "Plants".
503	944	24		"plans" should be "plants".
504	944	27		"Plans" should be "Plants".
505	947	2		Fourth word "frow" should be "of".
506	949	9		Change "below 30 marks," to read "just below RM 0.50 per kg.".
507	949	10		Change "eight" to read "RM 0.08".
508	950	19		"prences" should be "processes".

Item	Transcript	Line(s)	PROPOSED CORRECTION
No.	Page		
509	953	12	Last word "confirms." should be "is involved her here."
510	953	14	"to an extent" should be "extensively".
511	954	4	Delete "A:" at beginning of line and substitute with quotation marks.
512	954	7	"discussion," should be "discussing".
513	959	22	Insert "which" after "law".
514	959	30	Place period after "material." Begin new sentence with "On the specific points".
515	974	5	Place quotation marks after "Ministry."
516	974	12	Change "Verstand of I.O." to read "Verstand number of I.O.".
517	975	1	"german" should be "Germany".
518	975	1	"Zern" should be "Honors".
519	975	17	"representatives" should be "representa- tive".
520	981	3	First word "in" should be "I".
521	984	13	First word "become" should be "became". "conversion" should be "conversion".
522	984	31	"Executives" should be "executives".
523	985	3	Delete last word "an".
524	985	4	"Altogether this occasion," should be "altogether on this occasion.". "remained" should be "retained".

Item	Transcript	Line(s)	PROPOSED CORRECTION
No.	Page		
525	989	16	Change "for arguments, sake. We picked" to read "for argument's sake, we picked".
526	990	28	Change "of private is directly to the" to read "of private industry is directly related to the".
527	990	29	Place colon after "1939:".
528	991	14	Place quotation marks before the second "I.".
529	991	18	Place quotation marks at beginning of line.
530	992	4	"Haber-Bosch." should be "Haber-Bosch process."
531	992	27	"53.9" should be "53.9 percent".
532	992	29	"The loss" should be "The loss".
533	993	8	Last word "discussion" should be "discussing".
534	993	18	"stock" should be "stood".
535	994	4	Change last word "of" to "which".
536	994	8	"init." should be "in."
537	994	18	Insert the following after line 13 and before line 14: "must have had a very crippling effect on the initiative of our industry in this direction. As is known, the Fuehrer, shortly after coming to power already gave the impulse for the motorization of Germany and the establishing of our own mineral oil basis at the Automobile

Item Transcript

Page Line(s)

PROPOSED CORRECTION

Exhibition in 1933. The conversion of this impulse into actual fact is first of all closely linked with the name of the Reich Minister of Economics, Dr. Schacht. The way in which the new knowledge was converted into actual fact is characteristic for the impetus given to our economy by National Socialism."

539 994 14

Change capitalization and punctuation at beginning of line from:

KEPPLER, "Your Honors

to:

Keppler" -- Your Honors

539 994 15

Change punctuation in middle of line from:

We have not Keppler before," the plenipotentiary

to:

We have not Keppler before -- "the plenipotentiary

540 994 17

Change "to carry Socialist Germany" to read "to carry out the plan. Whoever compares the economic history of National Socialist Germany".

541 995 24

"to a certain extent," should be "to a certain extent,".

542 996 3

Place period at end of line.

543 996 4

Begin new sentence with this line and delete period after "page".

Item	Transcript	Line(s)	PROPOSED CORRECTION
No.	PAGE		
544	996	25-26	Change period after "facilities" in line 25 to comma and continue with lines 26 to 26, changed to read as follows: "especially in the light of the fact, as your Honors will later see, that although slave laborers and foreigners were employed everywhere, they were excluded from these types of plants."
545	997	4	Change "which gives" to "since it gives".
546	997	5	Change "saw that," to "saw it."
547	997	8	"opining remarks" should be "opening remarks".
548	997	10	Change "we necessarily" to read "we would necessarily".
549	997	12	Change "this is what we've conclude our" to read "this concludes our".
550	997	13	Delete "an" after first word "proof".
551	997	21	Second word "before" should be "first".
552	1004	12	Change "which I have most assume" to read "which I have I most assume".
553	1004	27	First two words, "to then" should be "to these".
554	1006	21	Add "to" at end of line.
555	1010	9	"of office" should be "of this office".
556	1010	18 & H.	Following "Mr. Schimatis" should be "Mr. Gsimatis".

Item Manuscript
No. Page Line(s)

PROPOSED CORRECTION

557 1010 21-22 Place period after first word "successor." in line 21. Change rest of line and line 22 to read "After the departure of Major Criminalis, Dr. Krenak was entrusted with the direction of this office."

558 1012 24 Place period after "Planning." Begin new sentence with "Since".

559 1013 28 "of explosives" should be "for explosives".

560 1014 18 Change "to you think" to "do you think".

561 1014 11 "Worked out." should be "worked it out."

562 1015 11 Place "A." at beginning of line.

563 1015 17 First word "It" should be "In".

564 1015 20-21 Change "should be changed by domestic production at home which should be economized with." to read "could be changed by synthetic production at home and respectively economized."

565 1016 7 Place semi-colon after "Synthetic".

566 1016 8 Change "there was responsibility for extending for the mines" to read "and for extending the mines".

567 1017 1 "error" should be "erroneous". Change comma after "details" to period.

568 1017 6 "rafting" should be "drafting".

569 1017 8 "detailer" should be "detailed".

44
183

Item	Manuscript	Line(s)	PROPOSED CORRECTION
No.	Page		
570	1017	9	"and that" should be "in that".
571	1017	18	"that the creation" should be "whether the creation".
572	1017	19	"that all these" should be "whether all these".
573	1017	22	First word "and" should be "while".
574	1017	23	"themselves" should be "itself".
575	1017	25-26	Delete all of line 25 and first two words of line 26. Replace with "actually these plants active in the industry concerned."
576	1020	1	Place period after "leather". Begin new sentence with "And in".
577	1020	3-4	Change lines 3, 3 and 4 to read as follows: "the field of the textile industry, briefly, I believe that there was scarcely a sector of any importance which, after the period of 1939, during the course of the war, did not depend in some way or other on I.O."
578	1020	17	Insert the following after "Farben" and before "practically": "with I.O. crossed from the German chemical life."
579	1026	22	Second word "discusses" should be "discussed".
580	1028	11	"What is later" should be "this is that later".
581	1028	19	Place quotation marks and dash after the first word "Phillips". Place dash after the last word in line "Ordnance".

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
582	1029	20		Place quotation marks before "stated", the first word in line.
583	1029	22		Place quotation marks at end of paragraph.
584	1031	16		Delete last word "and".
585	1031	17		Change first word "being" to "which is".
586	1031	19		"worth nothing" should be "worth noting".
587	1032	9		Delete quotation marks before "This". Add "concerning" after "conference" at end of line.
588	1032	10		Begin this line with quotation marks. Change first two words "speeding up" to read "almost acceleration of".
589	1032	18		"for Plenipotentiary" should be "Plenipotentiary for".
590	1033	1		Add "for" after "costs" at end of line.
591	1033	2		Delete comma after "essentially". Change "conditional" to "conditioned".
592	1033	4		Change "endeavors the" to "endeavors to".
593	1033	18		"to conferences" should be "to a conference".
594	1033	19		Place quotation marks at beginning of line. Change "to the built" to "to be built".
595	1033	22		Place comma after "I.O.",.
596	1034	8		Place quotation marks after "bearing".
597	1034	9		Place quotation marks after "Paragraph III".

Item	Transcript	Line(s)	PROPOSED CORRECTION
No.	Page		
599	1035	13-14	Place comma after "shortly" and change rest of line 13 and 14 to read as follows: "that only that only the effectiveness of the building process and the difficulties therein have prevented them from being practical."
599	1035	26	Correct and punctuate first part of line "He says Schuyler, Penn I plans to expand" as follows: "He says: "Schuyler, Penn I. To expand
600	1035	27	Place quotation marks after first word "plant".
601	1035	28	Place quotation marks before "to a production" and after "per year."
602	1035	29	Place quotation marks before "I.O."
603	1035	1	Change "since it is in agreement, which continued" to read "entered into an agreement which contained".
604	1035	12	Place "2M" before "\$1,250,000".
605	1035	13	Place quotation marks after "Schuyler".
606	1035	18	Change first word "Building" to "planning".
607	1035	21	"was built in" should be "was built as". Place quotation marks after "plant."
608 608	1035	29-30	Change "and agreeing on the Schuyler" to read "and an agreement on Schuyler".
609	1037	12	Change "to the members of the TBA and as to" to read "of the members of TBA as to".
609	1037	17	Delete "since" before "synthetic".

Item	Transcript	Line(s)	PROPOSED CORRECTION
No.	Page		
610	1037	18	Place period after "product" and begin new sentence with "The document". Change "documents require" to "document requires".
611	1038	15	Place quotation marks after "Plan,".
612	1038	18	Delete quotation marks after "technicians,".
613	1041	9	"sums" should be "expense".
614	1041	31	Place comma after third word "uses,".
615	1043	11	Change period to comma after "Main Products". Change "That lists various products:" to read "where various products are listed:".
616	1045	24	"Bum." should be "Bum III.".
617	1048	8	Place "EM" before "120" and before "10".
618	1051	21	Insert the following after first word "plants": "is planned. These parts of the Bum plant, including the auxiliary plants,".
619	1051	22	"be enlarged" should be "be enlarged".
620	1052	11	Change "the fact that we" to "what we have just".
621	1053	1	"execution" should be "executing".
622	1053	32	Insert the following between "with" and "greater": "over decreasing exceptions, be considered as essential to the war effort; the".
623	1054	14	Delete period after "possible".
624	1054	15	Change comma after "and so on" to semi-colon.

44
187

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
626	1054	19		Change "rubber supply" to read "regarding rubber supply".
626	1054	28		Change period to colon.
627	1057	14		"Tri. and Walzel." should be "of Tri. and Walzel." "expansion" should be "extension".
628	1058	18-27		"Aachen" should be "Ahen".
629	1059	2-12		"Aachen" should be "Ahen".
630	1061	12		Change "German book, which is page 37 (of the English)." to read "English book, which is page 37 of the German."
631	1062	2		Correct and punctuate line 2 as follows: "Textile cylinders" -- code word for incendiary bombs -- "quite different from the
632	1062	9		Delete second word "than".
633	1062	10		Change "That letter establishing" to read "This letter establishes".
634	1062	11		Change "and the initiative" to read "and shows Farben's initiative".
635	1062	12		Change line 12 to read "Goering's office that steps have to be taken to put the plant in readiness."
636	1062	12		Last word "Production" should be "Prosecution".
637	1064	28		Place quotation marks at beginning of line.
637b	1065	1		Place quotation marks at beginning of line.

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
538	1064	8		Change "recently disposed of it and" to read "recently been disposed of and".
539	1068	18		Change "and made some rulings" to read "had made some rulings".
540	1068	14		"the earlier application" should be "these earlier applications".
541	1068	15		Place opening parenthesis before line 15.
542	1068	18		Place closing parenthesis after "Dr. Hoffman". Place a dash after the parenthesis and change "but" to "however,".
543	1068	22		"possible" should be "possibly".
544	1068	23		"of with a full" should be "of a full".
545	1068	26		"toward it" should be "towards the truth".
546	1070	26		"belonged" should be "belong".
547	1075	2		Change period to comma after "beginning,". Change following words "This is" to "and also".
548	1075	9		"in a preceding" should be "in the preceding".
549	1075	26		Delete comma after "documents"; place comma after "related,".
550	1075	26		Change first word "we" to "is".
551	1075	29		"I notice" should be "I note".
552	1075	3-4		Change "Page 79 which is Page 99." to read "Page 79 of the English which is Page 99 of the German."

44
149

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
653	1077	19		Change "recall that being" to read "recall that as being".
654	1078	23		Place quotation marks at end of paragraph.
655	1079	13		Delete period after "engagement". Change "Mr. Elias is back in" to read "Mr. Elias has back in".
656	1082			Change pagination to "1083".
657	1083			Change pagination to "1082".
658	1084	20 11		Delete "35".
659	1084	15		Place quotation marks after "Predicts."
660	1084	19		"this explosive." should be "these explosives."
661	1084	27		Delete comma between "ethylene" and "oxide".
662	1085	11		Delete comma after "box". Enclose "Raw Gasoline" in quotation marks.
663	1085	26		"had built up" should be "had been built up".
664	1085	15		Delete quotation marks before "Radische."
665	1087	11		Last two words "the line" should be "in the line".
666	1087	16		"tens 1913" should be "tens in 1913".
667	1088	4		Place quotation marks after the first "DAG" in middle of line.
668	1088	5		Place quotation marks at beginning of line.

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
669	1099	22		First word "indicates" should be "indicate".
670	1099	12		"as necessary ingredients" should be "as a necessary ingredient".
671	1091	5		Place quotation marks after "Diglycol" and before "and that only after".
672	1091	7		"this is with" should be "there is a".
673	1091	15-20		Change "We will be having discussions with this matter later on with Dr. Lahn." to read "We will find discussions with Dr. Lahn on this matter later on."
674	1091	23		Delete comma after "34". Place comma after "Back.". Delete comma at end of line 1.
675	1091	25		Replace comma after "Farben" by a closing parenthesis.
676	1094	26		Change first word "and" to "to".
677	1095	1		"was urgently" should be "is urgently".
678	1096	28		"with reference to the chart." should be "on this chart."
679	1096	28		Last word "letter" should be "document".
680	1098	10		Delete comma at end of line after "about it".
681	1098	11		Change "being a stand-by plant" to read "being that it was a stand-by plant". Place colon instead of period at end of line 11.
682	1098	19		"page 55, if your Honors please," should be "On page 55, if your Honors please," beginning a new sentence.

Item	Transcript	Page	Line(s)	PROPOSED CORRECTIONS
683	1098	24		"sifted" should be "shifted".
684	1098	25		"leased it" should be "leased them".
685	1098	25		Place quotation marks before "where".
686	1099	11-12		Change period after "product" in line 11 to comma and delete quotation marks. Change "Dr. Kahn recommended an agreement and we submitted" to read as follows: Dr. Kahn recommended that an agreement should be arrived at with the Reich War Ministry regarding a provisional standard price." We submit We submit
687	1099	16		Delete "this" after "document".
688	1099	25		Change "part of production in the war" to read "start of production in the war".
689	1099	27		Place quotation marks before "the Army-owned".
690	1099	28		Place quotation marks after "Munich".
691	1100	3		Delete last two words "explanation is".
692	1100	17-18		Change "there should be wholesale orders for diglycol also considered." to read "should also be considered the wholesale orders for diglycol."
693	1100	22-24		Change all of lines 22, 23 and 24 to read as follows: I would like to call your Honor's attention to the items under the headings "Stabilizers" and "Disinfection Chemicals" on pages 58 and 59, to

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
693	1100	23-24		the recitals in this contract of the early orders for
694	1102	2		Place quotation marks after the first word "whereas" and before the second "whereas". Change "page 76" to read "page 76 of the German".
695	1103	17		"went" should be "go". Delete quotation marks after "Schkepen".
696	1103	18		Delete quotation marks after last word ^d "Schkepen".
697	1105	31		Insert "of the German" after "Page 24".
698	1104	10		"in inadequate" should be "is inadequate".
699	1105	11		Delete period after "top" and change the following two words "From our" to "from the".
700	1105	13-14		Change "this is a copy that we only had," to read "this is only a copy that we have and".
701	1107	11		First word "but" should be "and".
702	1108	27		"connecting." should be "in connection herewith".
703	1109	10		"so much." should be "EN 1.10".
704	1109	28		Place comma after last word ^d "Sedingen".
705	1111	10		"we see that" should be "we see what".
706	1116	3		Place comma after "Guesen".

Item	Transcript		
No.	Page	Line(s)	PROPOSED CORRECTION
707	1115	7	"WUS" should be "WUSTAN".
708	1115	24	"600" should be "890".
709	1117	29	Second word "were" should be "work".
710	1118	28	Place quotation marks before "the capacity".
711	1118	31	Place quotation marks after "of power".
712	1119	2	Change last word "also" to "which also".
713	1120	3	"page 37" should be "page 78 of the German".
714	1120	2	Place "MR. ANCHER:" at beginning of line before "If your Honors please,".
715	1120	8	"of your index" should be "of the index of Book XXXIII.".
716	1120	7	"4839" should be "4834".
717	1120	12	"page 3" should be "page 3 of the document".
718	1120	21	Place quotation marks at end of paragraph.
719	1120	25	Place quotation marks after "suitable room".
720	1120	30	Place quotation marks at end of paragraph.
721	1120	13	Delete quotation marks at end of this paragraph.
722	1120	20	"It is further" should be "It will be further".
723	1120	3	Delete as repetition "of the English".
724	1120	27	Change "At the present stage" to read "And that at the present stage".

4/4
194

Item	Transcript	Page	Line(s)	PROPOSED CORRECTIONS
725	1139	5		Place quotation marks at end of line after "successful".
726	1139	24		Place quotation marks before "The experiment".
727	1139	27		Place quotation marks after "Orgasid".
728	1133	25		Place quotation marks at end of paragraph.
729	1133	26		"This was again November 1936" should be placed as a complete sentence in parentheses ending the preceding paragraph.
730	1133	27		Place quotation marks at beginning of line.
731	1134	3		"page 211." should be "page 211 of the German."
732	1134	5-6		Change "And Ludwighafen has conserved capacity in the discussion of increasing that." to read "And the capacity of Ludwighafen in accordance with the discussion will be increased."
733	1137	6		"performed" should be "informed".
734	1137	15		"seems to be a" should be "seems to have a". Last word "fun" should be "flew".
735	1139	7		"and explains" should be "and it explains".
736	1139	18		"Page 232." should be "Page 232 of the German."
737	1139	11		"Pever" should be "Powder".
738	1140	8		"Page 235." should be "Page 235 of the German".

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
739	1148	18		Place quotation marks at beginning of line.
740	1148	20		"shall meet" should be "shall again meet".
741	1148	22		First two words "it was" should be "they were".
742	1148	27		"Page 53," should be "at the paragraph marked Page 53."
743	1144	3		"the I.O. production" should be "regarding I.O. production".
744	1148	13		"he raised." should be "in the objection raised."
745	1148	17		First word "correct" should be "correction".
746	1147	19		"15" should be "15 of the German book."
747	1148	1		"Q" at beginning of line should be quotation marks.
748	1148	29		"firm in Stuttgart," should be "firm of Max Raaf in Stuttgart."
749	1149	1		Change "It was changed to Monturen" to read "The name of the firm operating the Falkenhagen works was changed to Monturen."
750	1149	5		"E-Staff" should be in parentheses.
751	1149	31		Place quotation marks after "Gondorf".
752	1149	32		Delete quotation marks after "subsidiary."
753	1151	10		"preceding" should be "proceeding".

44
196

Item	Transcript			PROPOSED CORRECTION
No.	Page	Line(s)		
754	1182	11		"words' balance" should be "works' balance".
755	1183	12		Place quotation marks after "Montan.".
756	1183	30		Place quotation marks at beginning of line.
757	1184	18		Place comma after "offered," and after "Survey.".
758	1185	3		"as I get it" should be "as I understand it".
759	1185	26		Place quotation marks before "Anhydrous".
760	1185	27		Place quotation marks after "Factory.".
761	1185	28		Place quotation marks before "still be".
762	1185	32		Place quotation marks at end of paragraph.
763	1186	12		"weighting" should be "weighing".
764	1186	20		Place quotation marks before "Under the contract".
765	1186	29-30		"another chemical firm," should be "the Bucken Chemical Factory.".
766	1189	1		"a letter from I.G." should be "first a letter from I.G.".
767	1189	6		"On page 60," should be "Then on page 60.".
768	1189	7		"132," should be "132 of the German.".
769	1189	4		"relates the" should be "relates to the".
770	1189	8		Place quotation marks after first word "association.".

Item	Transcript	No.	Page	Line(s)	PROPOSED CORRECTION
771	1163	17			"as the association" should be "as to the association".
772	1164	9			"162," should be "162 of the German,".
773	1164	11			"makes gases visible," should be "which makes gases visible,".
774	1166	3			"Keris" should be "Kels".
775	1167	1			Place quotation marks before "the experi- mental".
776	1167	2			Place quotation marks at end of line.
777	1167	9			Last word "reproduction" should be "operation".
778	1167	22			"not read" should be "not to read".
779	1168	6			"ill also be supplied" should be "Trust- berg will also be supplied".
780	1168	9			"162," should be "162 of the German,".
781	1168	20			"164," should be "164 of the German,".
782	1169	9			"between I.O." should be "for I.O.".
783	1170	1			"which have to do" should be "which has to do".
784	1176	13			"are the copies," should be "are additional copies." .
785	1180	22			"ab 11b" should be "ad 11b".
786	1182	13			Place quotation marks before "was produced".

Item No.	Transcript Page	Line(s)	PROPOSED CORRECTION
787	1184	11	"216, 217 now" should be "216, 217 of the German now".
788	1185	15	"too fact" should be "to the fact".
789	1185	24	"194K" should be "1941".
790	1186	20	"on the Arm" should be "by the Army". Place quotation marks around "The firm".
791	1186	21	Place quotation marks before "was commissioned".
792	1187	12	Change "It is Prosecution Exhibit 639. We offer NL-9198." to read "Next we offer Prosecution Exhibit 639, NL-9198.".
793	1189	31	Delete as repetition last word "should".
794	1193	8	Delete "these" before "discussing".
795	1194	7	Delete quotation marks after first word "persons". Place quotation marks after "Ted",.
796	1194	15	Change comma to period after "sabotage".
797	1194	31	Enclose "Uree" in parentheses.
798	1195	8	Change "one the I.G. Farben officials, as I recall it, tried" to read "one of the I.G. Farben officials, as I recall it, who tried".
799	1195	9	Delete "that" after "to note".
800	1195	15	Change "what the things are, and, if necessary in appropriate to" to read "of what the things are, and, if necessary, it would be appropriate to".

Item	Transcript			PROPOSED CORRECTION
No.	Para	Line(s)		
801	1195	17		Change last word "use" to "in".
802	1196	1		"the I.O. of" should be "the I.O. to".
803	1196	4		"plant it produced" should be "plant produced".
804	1196	6-7		Change "Just another one, I would say, here is the tie-up of Falkenhagen being I.O., and the other evidence to Falkenhagen." to read "Just another case, I would say, tying up Falkenhagen with I.O. and the other evidence concerning Falkenhagen."
805	1196	8		Change "Now the next paragraphs 2 and 43," to read "Now the next paragraph 2, on page 43", deleting comma after 43.
806	1196	11		Change last word "this" to "that".
807	1196	15		Change last word "having" to "in".
808	1196	16		Change first word "substituted" to "substituting".
809	1196	19		"seen hardly" should be "seemed hardly".
810	1196	26		Place quotation marks after first word "place".
811	1197	7		Place quotation marks at beginning of line. Change "considered on a fixed rent, it means" to read "considered, the fixed rent means".
812	1198	10		Insert "of the Germans" after "51".

44
200

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
813	1199	18		"There is other" should be "There will be other".
814	1199	27		Insert "of the German" after "66".
815	1201	11		"Page 57" should be "Page 58".
81512	1212	24		Change comma to period after "NL-7850.". Delete following word "a".
817	1212	31		Place quotation marks after "materials".
818	1213	24		Change "makes the explosive effective" to read "does not harm the explosive effect".
819	1214	3		Place comma after "original".
820	1214	24		Change "are not available for the years 1942 to" to read "as not available for the years 1932 to".
821	1215	12		Change "note which follows in the" to "note that the".
822	1215	22		Change "is tear gas" to "is tear gas".
823	1215	25		Change "was not a tear gas, and this" to "which is not a tear gas, and in this".
824	1215	26-27		Change "and in 1938, as we indicated has some special significance and 1939, 537,000 odd tons." to read "to 499,000 tons in 1938, which year we indicated has some special significance, and in 1939 to 537,000 odd tons".
825	1217	16		"is 136." should be "is page 136.".

Item Transcript		Page		Line(s)	PROPOSED CORRECTION
No.					
826	1217	21			Insert "of the German," after "196".
827	1218	13			Place quotation marks at the beginning of line.
828	1219	29			"craft" should be "graph".
829	1221	18			Change first two words "this is" to "Then".
830	1221	25			"My general statement" should be "A general statement".
831	1221	31			"than he was" should be "than that he was".
833	1223	23			Delete "were" before "referred" and insert "are" before "identified".
833	1223	15			Change semi-colon after "Deckeritz" to comma.
834	1223	30			Change last two words "and the" to read "as does the".
835	1223	31			Change "It is a picture." to read "This is the picture.".
836	1224	2			"dates" should be "date".
837	1224	14			Change last word "and" to "with".
838	1224	18			Add "is to" after "knew," at end of line.
839	1225	8			Change first word "The" to "As".
840	1225	23			"investments figure," should be "investment figures,".
841	1225	29			"shelly" should be "wholly".

Item	Transcript	No.	Page	Line(s)	PROPOSED CORRECTION
842	1226	16			Delete first three words "check with chart."
843	1227	1			"to HL-7772;" should be "with HL-7772;"
844	1227	21			"DAG,--Vasag" should be "DAG and Vasag."
845	1227	23			Change "as I indicated, being a direct subsidiary of I.O." to read "which, as I indicated, were direct subsidiaries of I.O."
846	1229	3			Delete "facilities".
847	1229	8			Place comma after "I.O.,".
848	1230	11			Place quotation marks before "in order".
849	1230	13			Place quotation marks after "plants."
850	1231	8			Change "in Poland I.O." to read "in Igiers, Poland, I.O."
851	1232	13			Place quotation marks after "cheaply." at end of line.
852	1233	3			"to pen it up." should be "to open it up."
853	1235	10			Change "by way of the DAG Treisdorf," to read "of the DAG, Treisdorf,"
854	1235	12			"at the right charts" should be "on the charts".
855	1235	23			Insert "As" before "Prosecution Exhibit 570".
856	1235	25			Change "the WIFO financing" to read "the WIFO regarding financing".
857	1235	26			"letter by I.O. Farben" should be "letter from I.O. Farben".

44
203

Item	Transcript			
No.	Page	Line(s)	PROPOSED CORRECTION	
858	1236	2	Place quotation marks at end of line.	
859	1236	30	"was HL-7711." should be "is HL-7711."	
860	1236	31	"Page 79." should be "Page 79 of the German."	
861	1237		The page numbered 1238, beginning "The matter looked to me as follows:" and ending "could never be demanded of industry." should be renumbered 1237.	
862	1237	2	(The page to be renumbered 1237) - Insert "of the German" after "78."	
863	1237	7	(The page to be renumbered 1237) - Change "or did not want" to read "or (b) did not want".	
864	1238	16-17	Change "as a limited purpose of presentation" to read "for the limited purpose of oral presentation".	
865	1238	18	"was a different" should be "was of a different".	
866	1238	23	"and enlargement of the" should be "and enlarged".	
867	1238	23	Delete quotation marks before "back home".	
868	1238	24	Place quotation marks around "scramble facilities", deleting the ones after "scramble".	
869	1238	26	"and additional plant" should be "an additional plant".	

44
204

Item	Transcript		
No.	Page	Line(s)	PROPOSED CORRECTION
870	1241	17	Insert "of the German," after "91".
871	1242	16	"1937-1937" should be "1934".
872	1242	23	"1935" should be "1934".
873	1243	29	"am using" should be "am abusing".
874	1244	11	Insert "of the German," after "107".
875	1244	30	Add "of the German," after "131" at end of line.
876	1245	21	Add "of the German:" after "139" at end of line.
877	1246	29	Insert "of the German," after "144".
878	1247	17	Place comma after "plants," and Change the following five words: as in the "Fall Case". to read: as in the A-Fall....", etc.
879	1247	12-13	Change "It is a letter from" to read "It consists of letters from".
880	1247	22	Insert "of the German," after "159".
881	1248	15	Insert "of the German," after "9".
882	1249	8	Insert "of the German," after "19".
883	1251	19	Delete "referred to".
884	1251	23	Add "per cent," after "85.7".
885	1252	29	Add "of calling witnesses" after "program" at end of line.

44
205

Item Transcript
No. Page Line(s) PROPOSED CORRECTION

886	1263	1	"or procedure?" should be "of procedure?".
887	1267	4	"been a position" should be "been the position".
888	1267	20-21	"underneath" should be "under".
889	1264	8	"plant the plant" should be "plan the plant".
890	1304	25	"244,000,737." should be "244,737,000.".
891	1264	26	"244000,116, in '42" should be "244,737,000 and 116,998,000, in '38".
892	1265	10	Place quotation marks at beginning of line and after "forstand".
893	1265	11	Place quotation marks before "with the exception" and after "exposed".
894	1266	13	Last word "important" should be "strategic".
895	1267	34	Change "are classified as counsel for the Prosecution or the Defense." to read "are to be classified in the sense of the counsel for the Prosecution or of the Defense."
896	1267	8	"proceeding" should be "preceding".
897	1267	18	First word "graft" should be "graph".
898	1267	22	"forty" should be "forth".
899	1268	14	"WIPO" should be "WIFO".
900	1269	5	Insert "SI-10012" after "594".
901	1269	16	"Four Year Plants." should be "Four Year Plan Plants.".

44
206

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
902	1269	18		"a Four Year Plan." should be "a Four Year Plan plant."
903	1270	4		Place quotation marks after "projects".
904	1270	9		Place quotation marks at end of paragraph.
905	1270	27		Delete quotation marks before "copies".
906	1270	28		Delete quotation marks after "Ludwigshafen".
907	1270	31		"this is some" should be "there is some".
908	1271	7		Delete quotation marks before "Copy".
909	1271	8		Delete quotation marks after "Kaiserin".
910	1271	16		"effect of" should be "effect to".
911	1272	15		"Page 109 of the record:" should be "Page 309 of the German record and 329 of the English:".
912	1273	14		First word "not" should be "nor".
913	1274	9		Change "should always precede the appearance of a witness" to read "should not precede the appearance of every witness."
914	1274	16		Last word "bully" should be "fully".
915	1275	4-5		"not as free" should be "more free".
916	1275	5		"as if" should be "then if".
917	1277	5		Last word "defendant" should be "defendants".
918	1277	22		Place quotation marks before "Thus,".

44
207

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
919	1278	3	Place quotation marks after "per cent."	
920	1278	4	Place quotation marks at beginning of line.	
921	1278	6	Place quotation marks at end of paragraph.	
922	1278	12	Change comma to period after the third word "Mobilization."	
923	1278	13	Place comma after first word "(grad)ually."	
924	1278	26	"all Farben with" should be "all Farben products with".	
925	1278	28	Delete as repetition last four words "which is page 19."	
936	1278	29	Insert "of the German," after "18".	
937	1279	21	Delete "received" before "the plant leader".	
938	1279	28	Delete quotation marks after "Czechoslovakia" and before "it was clear".	
939	1279	30	"would" should be "could".	
940	1281	31	"Prosecution" should be "Defense".	
941	1282	26	"stated probably" should be "stated perfectly".	
942	1282	29	"in the same case" should be "in some cases".	
943	1284	7	"affidavit" should be "affidavits".	
944	1284	21	"Mr. Prosecution" should be "Mr. Prosecutor".	
945	1284	31	Insert "of the German," after "7".	
946	1285	24	Insert "of the German," after "41".	

44
208

Item	Transcript	Page	Line(s)	PROPOSED CORRECTION
947	1285	25		Delete "The date -". Begin new sentence with "On the".
948	1287	5		Insert the following sentence before the quotation in line 5: And on page 40, your Remers, which is page 49 of the German, on the top of the page:
949	1287	45		"autarky" should be "autarchy".
950	1287	10		"in climbed" should be "it climbed".
951	1287	24		"page 40" should be "page 50".
952	1287	27		"I would not" should be "I would now".
953	1289	19		Add "of the German," after "112" at end of line.
954	1290	17		First word "if" should be "is".
955	1291	12		"you hit 1936," should be "when you hit 1936,".
956	1291	21		Delete quotation marks at end of line.
957	1293	11		Insert "of the German," after "147".
958	1294	6		Delete quotation marks before "in spite of".
959	1294	32		"sack-piled" should be "stock-piled".
960	1297	9		"filling" should be "filling".
961	1299	15		"Supply Room," should be "Supply Rooms,".
962	1299	19		Delete quotation marks before "Wife's".

Item	Transcript	No.	Page	Line(s)	PROPOSED CORRECTION
963	1300	14			"Branch" should be "Krench".
964	1301	14			"read Nickel Company" should be "Read Nickel Company".
965	1303	26			"The Court respectfully" should be "The Court is respectfully".
966	1305	22			"says that in 1936" should be "who says that in 1936".
967	1309	23			Place period after "co-defendant." Begin new sentence with last word "if".
968	1319	24			Delete quotation marks before "stated that".
969	1319	28			"is fully used." should be "if fully used".
970	1319	29			"statement" should be "sentence".
971	1320	7			"KST." should be "K St.".
972	1323	22			"WIFL." should be "WIFO?".
973	1324	6			"Wirtschaftliche" should be "Wirtschaftliche".
974	1325	9			Delete last word "the".
975	1327	7			"foreign required" should be "foreign exchange required".
976	1327	18			"undercross" should be "underscores".
977	1329	14			Change "latter remark" to read "last remark removed".
978	1330	31			Place quotation marks after "markets." Delete quotation marks before "This".

414
210

Item	Page	Line(s)	PROPOSED CORRECTION
979	1232	25	"May he inquire" should be "May we inquire".
980	1233	11	Last three words "the so choose." should be "they so choose."
981	1237	7	Change period after "21-2754" to comma and continue sentence with "question".
982	1237	13	"English" should be "German".
983	1237	14	"German," should be "English,".

By: 

D. A. SPENCE
Chief, Foreign Trial Team

Washington 12 February 1946

Date

For: THOMAS PATON
Brig. Gen. USA
Chief of Counsel

4/15
①

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
30 APRIL 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUTH, et al.,

Defendants.

FILED 30 April 1948
Secretary General
Case No. 6
Tribunals
Center

ORDER

On 27 April 1948, Dr. Otto Melts, Counsel for the Defendant Heinrich Nowinski, filed a petition asking that the documents offered by the Prosecution and rejected by the Tribunal should be marked on the originals in the Document Room to indicate the rulings of the Court.

The Document Room is a depository for documents generally. The documents of which this Tribunal is concerned are in the files of the Secretary-General. The latter group of documents have been and will be marked to indicate the action of the Tribunal with respect thereto. The documents in the Document Room, are not, strictly speaking, before the Tribunal.

The above motion is therefore denied.

Quintin C. Blake
QUINTIN C. BLAKE
Presiding

Dated this 30th day of April 1948

DEFENSE NOTIFIED
30 April 1948 JAL
PROSECUTION NOTIFIED

415
(2)

Dr. Dr. Otto Melte

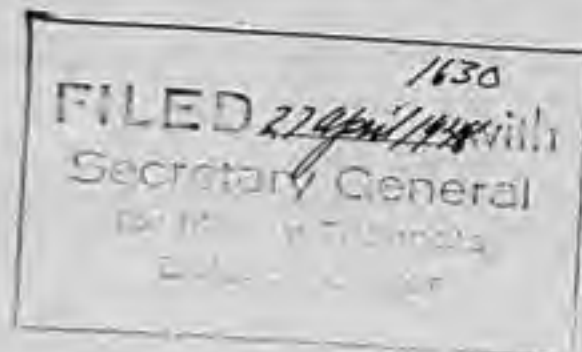
Nurnberg 27 April 1948

Nurnberg

To

Military Tribunal No. VI

Nurnberg



Subject: Case No. 6, trial against Krauch et al.
Defense for defendant Prof. Heinrich Hoerlein.

There are a number of documents offered by the Prosecution in this trial which, however, have been entirely or partly rejected after they had been objected to.

I have now found out that all these documents as far as they have bearing upon the defendant Professor Hoerlein are lying unchanged in the Document Room.

Since these documents are the authentic documents upon which the verdict and also historiography will be based, I deem it necessary to see

- a) that the documents not accepted or rejected will be marked accordingly on the original;
- b) that it will be made clear on the documents which have been partly cancelled in how far they have not been admitted in evidence or have been cancelled.

It would also be part of a fair trial that those documents contained in the document books and which have not been introduced be marked accordingly.

I request the Tribunal to rule
that the Prosecution officially
inform the Chief of the Archives in case
a document delivered to the Archives

- a) has not been introduced,
- b) has been withdrawn
- c) or rejected;
- d) has been cancelled later on
- c) or in case parts of this document have not been

introduced, have been rejected or cancelled later on; furthermore, that the Chief of the Document Room is obligated to mark this information on the document concerned. The Prosecution and the Chief of the Document Room, Mr. Niebergall, will receive a copy of this motion.

(s) Dr. Nelte

Dr. Dr. Otto Ne l t e

Euernberg

Euernberg, den 27. April 1948

An den

Militärgerichtshof Nr. VI

Euernberg

1636
FILED 27 April 1948
Secretary General

Betr.: Fall Nr. 6, Verfahren gegen Krauch und Andere,
Verteidigung des Angeklagten Prof. Dr. Heinrich Hoerlein

Es gibt eine Anzahl Dokumente, der Anklage, die in diesem Verfahren
vorgelegt, aber auf Einspruch hin ganz oder teilweise zurückgewiesen wurden.

Ich habe nun festgestellt, dass alle diese Dokumente, soweit sie den
Fall des Angeklagten Professor Hoerlein betreffen, unverändert im Dokumenten-
Raum liegen.

Da diese Dokumente die authentischen Unterlagen fuer die Urteilsfindung,
aber auch fuer eine spätere Geschichtsschreibung sind, erscheint es, wie ich
glaube, notwendig sicherzustellen,

- dass a) Die nicht angenommenen oder zurückgewiesenen Dokumente
mit einem entsprechenden Vermerk auf dem Original versehen
werden,
b) dass auf den Dokumenten, die teilweise gestrichen sind,
erkennbar gemacht wird, inwieweit sie als Beweismittel nicht
zugelassen oder gestrichen worden sind.

Einem gerechten Verfahren wuerde es auch entsprechen, dass auf den
Dokumenten, die in den Dokumententuechern enthalten sind, aber nicht eingefuehrt
wurden, auch ein entsprechender Vermerk angebracht wuerde.

Ich bitte das Hohe Gericht eine Anordnung zu treffen :

dass die Anklagebehoerde gehalten sein soll, dem Leiter des Archivs
eine offizielle Mitteilung zu machen, wenn ein dem Archiv uebergebenes
Dokument

- a) entweder nicht eingefuehrt worden ist,
b) oder zurueckgezogen wurde,
c) oder zurueckgewiesen wurde

416
①

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
27 APRIL 1948

THE UNITED STATES OF AMERICA

- vs. -

GARL KRAUGH, et al.,

Defendants.

FILED 5 May 1948
Secret - General
Case No. 6 - Counts
Dated 5 May 1948

ORDER

Under date of 10 March 1948, supplemented by motion of 13 March 1948, Dr. Fribilla, as Counsel for the Defendant Lautenschlaeger, requested a medical examination of the Defendant Lautenschlaeger, to determine whether he was capable of continuing his defense in this case. That medical examination has been conducted and report thereon was made to the Tribunal under date of 7 April 1948, from the medical officials of the 317th Station Hospital at Wiesbaden. Subsequently, under date of 18 April 1948, Dr. Fribilla, on behalf of his client, filed a motion requesting a separation of the proceedings against the Defendant Lautenschlaeger from the other defendants in Case 6. The Tribunal has very carefully considered the facts set forth in the motions filed by Dr. Fribilla, together with the medical reports referred to, and the motion dated 18 April 1948, is hereby denied.

The Tribunal does not feel that it has been established that the defendant is incapable of properly conducting his further defense in this case.

Levin H. Chase
Presiding Judge

Sam Morris
Judge

Paul M. Herbert
Judge

5 May 1948 JOR
PROSECUTION NOTIFIED

Charles F. Murphy
Assistant Judge

Dated this 27th day of April 1948

2064

Dr. Hans P r i b i l l a
defense counsel of the defendant
Prof. Carl Ludwig Lautenschläger

416
Nuernberg, April 18, 1948. (2)

To: Military Tribunal VI
Nuernberg

1130
FILED 20 Apr 48 with
Secretary General
for Military Tribunals
Defense Center

In my capacity as defense counsel of the defendant
Prof. Carl Ludwig Lautenschlaeger I herewith submit the
following

a p p l i c a t i o n s :

The High Tribunal may rule

1. to separate the proceeding against the defendant
Lautenschlaeger from case VI and to adjourn it for the
present.
2. after the separation of the proceeding, to release
the defendant until he has regained his health.

R e a s o n s :

Since the beginning of the trial the physical and mental
forces of the defendant were diminishing. He was not able
to follow the trial and to give his defense counsel the
necessary informations or to assist him in preparing his
defense. In January 1948, Lautenschlaeger was in the
hospital for some time, but as his stay there did not
improve his health, on March 10, 1948, I applied to transfer
the defendant to a commission of medical experts to
examine whether he was able to stand the trial. The High
Tribunal granted this application on March 16, 1948, and
the defendant was transferred into an American hospital
at Wiesbaden. Up to this day the defendant did not yet

416
③

return to Nürnberg. His stay there for such a long time shows clearly that the American experts there had considered his illness as being serious. That fully confirms the statements of defense counsel concerning the state of health of Professor Lautenschlaeger from the beginning of the trial up to his stay at the Wiesbaden hospital.

The following should be emphasized particularly:

1. The medical layman too, was able to recognize that Prof. Lautenschlaeger's state of health got worse and worse from week to week. The members of this High Tribunal are judges of high rank and possess great knowledge of the human nature and great experiences. The defense therefore is convinced that the members of the High Tribunal were aware of the defendant's bad state of health.

2. The High Tribunal will remember the statement on oath of the defendant, director Jaehne, in the session of March 24, 1948 concerning Prof. Lautenschlaeger's state of health (see English transcript page 9970).

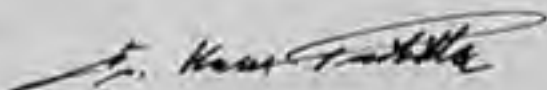
3. His defense counsel, Dr. Hans Pribilla, his assistant defense counsel, A.P. Eisemann, and the typist secretary, Frau Sonja Schaffner, are prepared at any time to testify as to their observations on Lautenschlaeger's state of health.

4. Prior to the beginning of the trial defendant Lautenschlaeger gave some affidavits to the Prosecution, containing certain formulations, which might be interpreted as charges against the defendant himself. One day, when his health was rather good, the defendant informed his counsel that the interrogation by the representative of the Prosecution had just taken place during the days of a strong psychical and physical depression. These were the days when he had learned of the very dangerous illness of

his only son, who later on died. Professor Lautenschlaeger said that the interrogator, Mr.v.Halle, opened up to him the certain prospect that he would be permitted to visit his hopelessly ill son. When this same gentleman handed him the formulation of his statements for signature, he had pointed out to important inaccuracies of formulation. From Mr.v. Halle's reply he had concluded that the visit to his son's sickbed would be endangered if he didn't sign the text as it was presented to him. In his distress he had complied with Mr.v.Halle's wish for an immediate signature. He then had heard no more from him. He did not receive the permission to visit his dying son. As the defendant is not able to concentrate himself, the defense now is not in a position to have the necessary corrections by personal interrogation of the defendant.

5. In conclusion it must be said that during the entire period of the trial the defendant was in a state of health which made it impossible for him to stand the trial, to conduct his case and to cooperate in his defense. Furthermore, the total time of his absence from the trial is already so considerable that his defense is confronted by a disadvantage that cannot be made up for any more. The High Tribunal knows that the defense has done everything in its power towards a clarification of the actual facts by introducing witnesses and documents. This, however, does not make up for the disadvantages, which originated during the greater part of the trial due to the state of health of the defendant. The defense has reached the conviction that, considering all the circumstances of the case, principles of a fair trial would be endangered if the procedure against Professor Lautenschlaeger is to be continued within the present trial.

The defense holds the opinion that already the aforesaid reasons alone justify the application for a separation of the procedure. The expected medical expert opinion cannot alter the facts, which occurred in the past. The long duration of Professor Lautenschlaeger's stay at the hospital speaks quite clearly for itself, and according to the decision of the High Tribunal the evidence of the defense will be concluded by May 19, 1948. The defense, therefore, feels bound in conscience to submit this application at the present time, in order to support the realization of the very high aims of a just trial.



attorney-at-law.

Neuropsychiatric Service
317th (US) Station Hospital
United States Air Forces in Europe
Wiesbaden Military Post
APO 633 US Army

416
⑥
JG/jp

7 April 1948

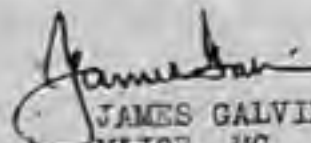
SUBJECT: Carl Lautenschlaeger

TO : United States Military Tribunal VI
Sitting in the Palace of Justice
Nurnberg, Germany

1. In accordance with order from United States Tribunal VI, dated 16 March 1948, Carl Lautenschlaeger has been examined in this hospital.

2. It is found that this patient has begun to show beginning changes of arteriosclerosis which effect his mental activity in the direction of making him forgetful, particularly for recent events, inaccurate in some factual recollections, and emotionally unstable. In addition he is mildly depressed, this depression having begun with the death of his child which apparently represents considerable emotional shock to him. Consequently he now shows additional memory gaps and emotional instability when his thinking is concerned with things that remind him of his child or his child's death. In spite of these limitations this patient has a rather rigid personality. He is inclined to place considerable emphasis on personal pride and honor. It should furthermore be mentioned that Carl Lautenschlaeger has beginning disease of the heart, caused again by arteriosclerosis which makes him unable to sustain very much in the way of physical exercise.

3. With the exception of these personality changes, no gross or serious psychiatric disease is found.


JAMES GALVIN
MAJOR, MC
Chief, NP Service

DR. HANS PRIBILLA
RECHTSANWALT

Nürnberg March 16, 1948

defense counsel of
the defendant Lautenschläger

To: President S h a k e
N ü r n b e r g

Your Honor,

in connection with the ruling of the Tribunal announced to me to day concerning the medical examination of the state of health of the defendant Lautenschläger in Wiesbaden I should like, as you agreed, to make the following statement:

It seems to be just and fair to call the attention of the American medical experts, charged by the Tribunal with the examination, to the fact that Prof. Lautenschläger does not speak sufficiently English and to give him an interpreter in the discussions. This request is especially justified by the most difficult and subtle questions lying between the physical and psychical field. Furthermore I should be very much obliged to you if you ordered to lodge Prof. Lautenschläger, being a prisoner on remand, separately and to send the annexed statement about the person of Prof. Lautenschläger - NI 8004 Exh. 307 - to the medical experts.



defense counsel

416
(8)

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

KRAUCH and Others (Case VI)

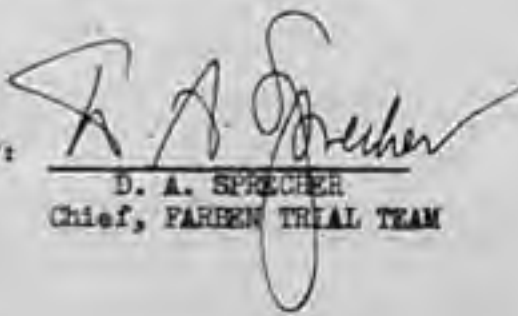
ANSWER IS MADE TO THE MOTION FOR A PHYSICAL AND MENTAL
EXAMINATION OF THE DEFENDANT LAUTENSCHLAGER

TO: The Secretary General, Military Tribunals (Room 281)

1. Answer is made to a motion by Dr. Pribilla, defense counsel for the defendant LAUTENSCHLAGER, filed dated 10 March 1948, requesting that the Tribunal appoint a commission of medical experts to examine the physical and mental ability of the defendant LAUTENSCHLAGER in order to determine if he is capable of making his defense.

2. The prosecution has no objection to this motion. Since the motion of the defense gives statements by defense counsel concerning his views of the state of health and the mental condition of the defendant LAUTENSCHLAGER, the prosecution feels obliged to state that (1) there was no showing prior to the indictment of any signs of mental deficiencies of the defendant LAUTENSCHLAGER during interrogations held by a number of persons prior to that time; (2) no adverse mental reports were rendered during the routine reports of the prison authorities to our knowledge.

By:


D. A. SPEECHER
Chief, WARREN TRIAL TEAM

NURNBERG 15 March 1948
Date

For: TELFORD TAYLOR
Brig. Gen. USA
Chief of Counsel

Dr. Hans P r i b i l l a
defense counsel for the
defendant Prof. Carl Ludwig Lautenschläger

Nürnberg, March 10, 1948.

416
⑨

To: Military Tribunal VI
N u r n b e r g

1600
FILED 119 March 11 1948
Secretary General
for Military Tribunals
Defense Center

As defense counsel for the defendant Prof. Carl Ludwig
Lautenschläger I hereby

m o v e

that the High Tribunal rule that an intensive clinical
examination of the state of health of the defendant
Lautenschläger will be made by a commission of
independent medical experts. This commission should
be charged to state whether or not the physical and
psychical conditions of the defendant exclude the
execution of a trial against him.

R e a s o n s :

As defense counsels of the defendant Lautenschläger
my associates and I are convinced that the state of
health of the defendant excludes his capability to
justify himself in a trial. This makes a regular defense
impossible for us or at least very difficult.

During the last months the physical and psychical
conditions of the defendant grew worse and worse. We
have observed that he is not able to follow the course
of the sessions; e.g. at the end of the session day
he does not recall, what occurred this day. He is not
able to give the necessary informations to the defense
in the difficult medical field of his case. He cannot
concentrate his thoughts and frequently he cannot

416
⑩

examine and formulate simple things. The defendant is not in the position to distinguish between the knowledge which he originally had and the knowledge he later on received either from files or in some other way during the proceedings of this trial. Within a few minutes he has forgotten what has just been discussed.

To judge from our observations it seems probable that the defendant suffers from a disorder of his mental functions or a psychical and nervous disease. A medical opinion should as well cover the psychiatric field.

E. Hans Mitchell

lawyer.

47
①

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
27 APRIL 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

FILED 5 May 1948 with
Secretary General
Case No. 6-
D.C. 100-10000

ORDER

On consideration of the motion filed by Dr. Helte on behalf of the Defendant Hoerlein, under date of 30 March 1948, which asks in the alternative that the Prosecution Exhibit 1866, NY-13590, be stricken as inadmissible or that a part of that exhibit which is identified in the motion be stricken from the exhibit as evidence in this case, the Tribunal has given consideration to that matter and now sustains the motion of Dr. Helte insofar as it applies to that part of Exhibit 1866 which follows the signature of Dr. Newman, more particularly page 6 of the original exhibit. That part of the exhibit is now stricken from the evidence as well as all that part of the cross-examination of the Defendant Hoerlein as pertains to the part which is now stricken from the evidence.

Karl J. E. Hake
Presiding Judge

James Morris
Judge

Lawrence Herbert
Judge

Charles M. ...
Alternate Judge

Dated this 27th day of April 1948

DEFENSE NOTIFIED

5 May 1948 JOK
PROSECUTION NOTIFIED 2074

417
(2)

Dr. Dr. Otto Helte

M u r n b e r g

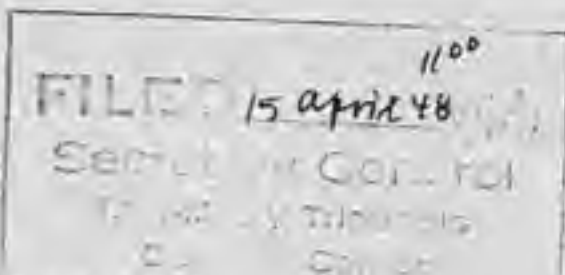
Palace of Justice

Murnberg 15 April 1948

To

Military Tribunal VI

M u r n b e r g



Subject: Case 6; proceedings against Krauch et al.

Defense for defendant Prof. Dr. Heinrich Roerlein

Reply to the Prosecution's comments upon my application of 30 March 1948 concerning document NI-13590, Exh. 1866.

1. Document NI-13590 has been designated "Report of Dr. Neumann" and submitted to the Tribunal (p. 6435, English transcript).
2. The Prosecution recognizes that page 6 of the document to which Mr. Minskoff expressly referred when presenting the document is not part of the Neumann report.
3. This recognition in writing, however, does not correct the transcript. The document introduced as "Neumann report" is a document composed of two different parts and therefore incorrect and inadmissible.
4. What the Prosecution sets forth in para. 4 of its answer is suitable to complicate and confuse the simple problem.

The Prosecution's assertion under 4 b):

"From the above quoted paragraph it is clear that Neumann's report was discussed at the meeting of 19 January 1942".

is incorrect. Document NI-14059, Exh. 1865 (first para) does not show either that the Neumann report was discussed at the meeting at Elberfeld on 19 January 1942, or that the file note Zahn on his meeting with Dr. Demitz, or part of it was added to the Neumann Report (p. 1 - 5 of document NI-13590).

According to experiences made it might very well be that the file-note on the Zahn - Dr. Demitz meeting of 19 Jan. 42 was not dictated,

written and taken to Elberfeld on the same day.

That Prof. Hoerlein did not receive it, is stated by Dir Zahn in the last sentence of his affidavit of 19 March 48 (Document Hoerlein No. 14).

5. The Prosecution's allegation (4 e) according to which Dir Zahn allegedly stated in his affidavit:

"that he sent a copy of the minutes of the meeting of 19 January 42 as an annex to his letter of 20 January to the defendant Dr. Mann and Brueggemann"

is in obvious contradiction with the Zahn affidavit where it says:

"On 20 Jan. I sent this report - Neumann Report p. 1 - 5 of Document NI - 13590 - to Consul General Mann and Brueggemann as an annex to my letter (Doc. NI-14059) on the negotiations in Leverkusen and Elberfeld on 19 January 42."

This shows that Dir Zahn just enclosed one annex, namely the original Neumann report, - to his letter of 20 January.

6. The further allegation of the Prosecution:

"He, Dir. Zahn also states specifically in his affidavit that the file note, a portion of which was attached to the Prosecution's exhibit, contained in the Neumann report was also sent out by him to the defendants Mann, Lautenschlaeger and to the Behringwerke."

is not supported by the Zahn affidavit. Zahn merely said that copies of the file note went out to the agencies listed in the distribution list. The name Mann is not contained therein. He explicitly states, that Prof. Hoerlein did not receive a copy.

7. Hence, the assertion:

"It seems obvious that the papers were all sent together".

is constructed and void of proof.

8. That the Prosecution's last assertion (4 f) is also incorrect can be seen from the document identified as NI-13590 when examining the so-called original. Page 6 of Document NI-13590 is cut out of the file note Zahn and glued together. In my motion of 30 March 1948 I gave particulars about this.

From these symptoms which the Prosecutor must have seen, too, can be seen most clearly that page 6 did not belong to the pages 1 - 5 - i.e. the Neumann report - . He therefore should not have designated and submitted Document NI-13590 as "Neumann report", and especially he should not have referred to page 6 as part of the "Neumann report".

The defendant was led astray by this. He was to be made unreliable by a negative answer to the question asked him.

It is therefore necessary that not only Document NI-13590 be deleted, but that the questions based upon the inadmissible document be deleted from the transcript.

/s./ Dr. Otto Helte

Dr. Dr. Otto Melte

N u e r n b e r g

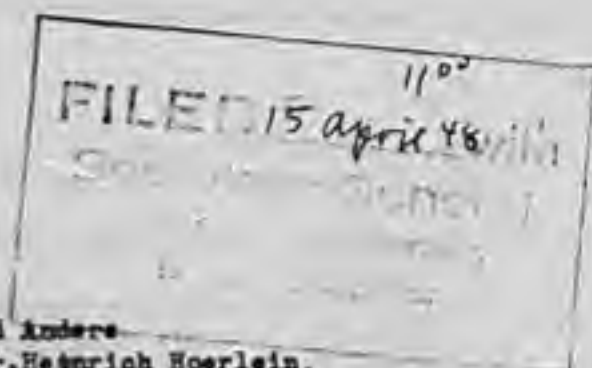
Justizpalast

Nuernberg, den 15. April 1948

An

Militärgerichtshof Nr. VI

N u e r n b e r g



Betr.: Fall Nr. 6, Verfahren gegen Krauch und Andere
Verteidigung des Angeklagten Prof. Dr. Heinrich Hoerlein,
Replik auf die Stellungnahme der Anklage zu meinem Antrag vom 30.3.48
betreffend Dokument NI-13590, Exhibit Nr. 1866.

1. Das Dokument NI-13590 ist als "Bericht des Dr. Neumann" bezeichnet und dem Gericht vorgelegt worden (S. 6435 engl. Prot.).
2. Die Anklagebehörde anerkennt, dass Seite 6 dieses Dokumentes, auf die Herr Minskoff bei seiner Vorlage ausdrücklich hinwies, kein Teil des Berichtes Neumann ist.
3. Durch dieses schriftliche Anerkenntnis ist das Protokoll noch nicht in Ordnung gebracht. Das als "Bericht Neumann" eingefuehrte Dokument ist ein aus zwei verschiedenen Teilen zusammengesetztes und daher unrichtiges und unsulaessiges Dokument.
4. Was die Anklage sub 2.4 ihrer Antwort darlegt, ist geeignet, das einfache Problem zu komplizieren und dadurch zu verwirren.

Die Behauptung der Anklage sub 4 b):

" Aus dem zitierten Absatz wird es klar, dass Neumanns Bericht auf der Besprechung vom 19.1.42 diskutiert wurde "

ist unrichtig. Aus dem Dokument NI-14069, Exhibit 1865 (erster Absatz) ergibt sich weder, dass der Neumann-Bericht auf der Besprechung in Elberfeld am 19.1.42 diskutiert wurde, noch dass die Aktennotiz Zahn ueber seine Besprechung mit Dr. Demnitz oder ein Teil derselben dem Neumann-Bericht (S. 1-5 des Dokumentes NI-13590) beige-fuegt war.

Es duerfte der Lebenserfahrung entsprechen, dass die Aktennotiz ueber die Besprechung Zahn-Dr. Demnitz vom 19.1.42 nicht an demselben Tag diktiert, geschrieben

und nach Elberfeld gebracht wurde.

Dass Prof. Hoerlein sie nicht erhalten hat, bekundet Dir. Zahn in seinem Affidavit vom 19.3.48 (Dokument-Hoerlein Nr.144) im letzten Satz.

5. Die Behauptung der Anklage (4 e), Direktor Zahn habe in seinem Affidavit erklärt :

" dass er eine Kopie der Niederschrift der Besprechung vom 19.1.42 als Anhang zu seinem Brief vom 20.1. an Mann und Brueggemann sandte "

steht in klarem Widerspruch zu dem Affidavit Zahn, in dem es heisst:

" Diesen Bericht - Bericht Neumann S.1-5 des Dokumentes NI-13590 - habe ich am 20.1. Herrn Generalkonsul Mann und Dr.Brueggemann als Anhang zu meinem Brief (Dok.NI-14069) ueber die Verhandlungen in Leverkusen und Elberfeld am 19.1.42 uebermittelt. "

Gerade hieraus ergibt sich, dass Dir. Zahn seinem Brief vom 20.1. nur eine Anlage beifuegte und zwar den echten Bericht Neumann.

6. Die weitere Behauptung der Anklage:

" Er -Dir.Zahn- stellt auch spezifisch in seinem Affidavit fest, dass die Aktennotiz, von der ein Teil dem Anklage-Exhibit angeheftet war, den Neumann-Bericht enthielt, auch von ihm an Mann, Lautenschlaeger und die Behringwerke gesandt wurden, "

findet in dem Affidavit Zahn keine Stuetze. Zahn hat lediglich gesagt, dass Abschriften der Aktennotiz an die im Verteiler aufgefuehrten Stellen gegangen sind. Darunter ist der Name Mann nicht enthalten. Ausdruecklich erwachnt er, dass Prof. Hoerlein eine Abschrift nicht erhalten hat.

7. Deshalb ist die Behauptung :

" Es ist offenbar, dass die Papiere alle zusammen gesandt wurden " konstruktiv und ohne Beweis.

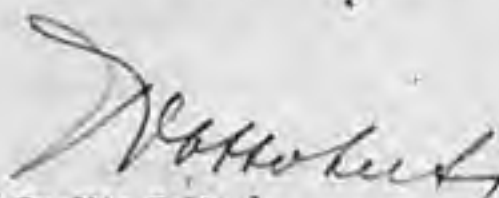
8. Dass auch die letzte Behauptung (4f) der Anklage unrichtig ist, ergibt sich aus dem Dokument, das mit NI-13590 bezeichnet ist, wenn man das sog.Original prueft. Die Seite 6 des Dokumentes NI-13590 ist aus der Aktennotiz Zahn herausgeschnitten und zusammengeleimt. Ich habe hierzu in meinem Antrag vom 30.3.48 naechere Angaben gemacht.

Aus diesen Symptomen, die der Herr Anklagvertreter auch erkennen musste, ergibt sich mit voelliger Klarheit, dass die Seite 6 nicht zu den Seiten 1-5 - dem Bericht Neumann - gehoerte. Er haette deshalb das Dokument NI-13590 nicht als "Bericht Neumann" bezeichnen und einfuehren, insbesondere nicht auf die

Seite 6 als Teil des " Berichtes Neumann " hinweisen duerfen.

Der Angeklagte ist hierdurch irregefuert worden. Er sollte durch eine Verneinung der ihm gestellten Frage unglaubwuerdig gemacht werden.

Es ist daher notwendig, dass nicht nur das Dokument NI-13590 gestrichen wird, sondern es muessen auch die auf das unsulaessige Dokument gestuetzten Fragen aus dem Protokoll entfernt werden.


(Dr.Otto Helte)

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

KRAUCH and Others (Case VI)

417
8
FILED 12 April 1948 with
Secretary General
for Military Tribunals
Defense Center

ANSWER TO A MOTION ON BEHALF OF THE DEFENDANT HOERLEIN
TO STRIKE PROSECUTION EXHIBIT 1866 FROM EVIDENCE AND TO STRIKE FROM
THE RECORD THE CROSS EXAMINATION OF THE DEFENDANT HOERLEIN CONCERN-
ING THIS EXHIBIT.

TO: The Secretary General, Military Tribunals (Room 281).

1. Answer is made to a motion by Dr. Nelte, counsel for the
defendant HOERLEIN, dated 30 March 1948, requesting the Tribunal to
strike as inadmissible prosecution exhibit 1866 (NI-13590) and to
strike from the transcript the interrogation of the defendant
HOERLEIN by Mr. Minskoff concerning this document. In justification,
defense counsel (1) notes that two individual reports had been con-
sidered as one by the prosecution (which is true); and (2) states,
among other things, that "the prosecution when presenting the docu-
ment NI-13590 (exhibit 1866) had to know that page 6 of the German
text did not belong to Dr. Neumann's memorandum".

2. Dr. Nelte's motion and our investigation based thereon has
indicated that Dr. Nelte is correct in his claim that the last page
of the document submitted as prosecution exhibit 1866 is in fact
part of the file note written by Dr. Zahn, whereas the first five
pages were from a memorandum of Dr. Neumann. Attached to this motion
is an affidavit by Mrs. Ruth L. Kempner, dated 7 April 1948, which
states that "the original document (exhibit 1866), which is now de-
posited with the OGCDC Document Control Branch, Nurnberg, is in
exactly the same form as I found it, namely, pages 1 through 5, with
page 5 signed by H. Neumann, followed by unsigned page 3a -6".
Exactly why the two memoranda were filed together in the original
files, we do not claim to know - except that they involve related
matters.

417
9

3. If we had been informed informally of the results of Dr. Nelte's investigation on this point outside of court, we would have been glad to stipulate to the facts. In that way we would have avoided a rather unfortunate insinuation that the prosecution "had to know" that page 6 of the German text did not belong to Dr. Neumann's memorandum. The prosecution frankly admits it was misled and made a mistake. But the mistake was really favorable to the defense, since Dr. Zahn (the author of the last page) held a position of high responsibility in Farben, whereas Dr. Neumann (the author of the first five pages) was subordinate to Dr. Zahn. In any event the record should now be clear.

4. But Dr. Nelte's motion goes further and asks that the document be stricken. In this connection the following facts are pertinent for the Tribunal's consideration:

(a) On page 6431 of the transcript, document NI-14059, prosecution exhibit 1865 was shown to defendant HOERLEIN. This document is a letter addressed to defendant MANN and Director Dr. Brueggemann. It is dated Leverkusen, 20 January 1942 and its first paragraph reads as follows:

"Re: Typhus Institute Lemberg.

I wish to make the following additional remarks on the attached report by Herrn Neumann about his trip to Lemberg and the negotiations with the various authorities, on the basis of the conference on the subject which took place on Monday 19 inst in Leverkusen in the morning and at Prof. Hoerlein's request in Elberfeld in the afternoon."

In answer to the prosecution's question as to whether the paragraph refreshed his recollection, defendant HOERLEIN stated:

"It becomes apparent from this paragraph that it does. May I also say that it was not worth my while to go there."

(b) From the above quoted paragraph, it is clear that Neumann's report was discussed at the meeting of 19 January 1942.

(c) Thereafter (page 6435 of the transcript) the

417
(10)

prosecution showed defendant HOERLEIN NI-13590, its exhibit 1866, which is a copy of Neumann's report above referred to.

The prosecution's question was as follows:

"Q. Dr. Hoerlein, I show you NI-13590, which we asked be marked as prosecution's exhibit 1866 for identification, which is a report of Dr. Heinrich Neumann wherein it is stated--it's page 4 of the English--I think it's the last page of the document before you--that Mrugowski is conducting experiments with vaccines produced by various means which are being put at his disposal by Marburg so as to establish whether there are any differences which speak in favor of one or the other production method, and I ask you whether that refreshes your recollection as to whether you did, in fact, receive a report on the Mrugowski experiments."

Thereafter there followed a colloquy between Dr. Nelte and the Tribunal. Finally the question was posed by the President of the Tribunal and answered in the following way:

"THE PRESIDENT: That is not for us to worry about. The Tribunal will supplement the question in order to get a positive answer. Does that, Mr. Witness, now refresh your recollection to the extent that you can say at the time the document was written, you knew about the thing that was referred to in the document or do you have any memory about it? Can you answer it 'yes', can you answer it 'no' or do you want to say that you can not remember.

"A. I do not now remember.

"THE PRESIDENT: That answers the question."

(d) From the foregoing question and answer, it is somewhat difficult to see in what way the defendant was prejudiced by the fact that the last page of the document was written by Director Dr. Zahn of I.G. Farben rather than by his subordinate, Dr. Neumann of I.G. Farben.

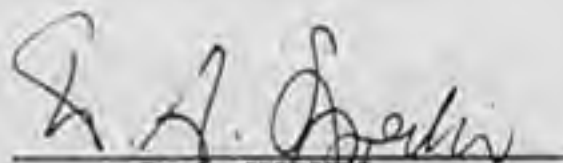
(e) Dr. Zahn, in his affidavit which is attached to Dr. Nelte's motion, explains that he sent a copy of the minutes of the meeting of 19 January as an annex to his letter of 20 January written to the defendant MANN and Dr. Brueggemann. He also states specifically in his affidavit that the file note, a portion of which was attached to the prosecution's


exhibit, contained in the Neumann report was also sent out by him to the defendants MANN and LAUTENSCHLAGER and to Behringwerke Leverkusen. It seems obvious that the papers were all sent together.

(f) It will be noted that Dr. Helte annexes the full file note of Dr. Zahn, a portion of which was in the prosecution exhibit 1866. Comparison of the two, i.e., the full file note submitted to Dr. Zahn with the last page of the prosecution exhibit shows that the portion which appears in the prosecution exhibit is not torn from the context but is a complete unit by itself and is accurate in every respect.

5. WHEREFORE, it is respectfully submitted that the motion should be denied.

By:


D. A. SPEECHER
Chief, Farben Trial Team


E. E. MINSEOFF
Deputy Prosecutor

For:

TELFORD TAYLOR
Brig. Gen. USA
Chief of Counsel

Nurnberg: 10 April 1948
(date)

AFFIDAVIT

I, Ruth L. Kempner, after having been warned that I will be liable to punishment for making false statements, herewith state under oath of my own free will and without coercion, the following:

I am working as a research analyst in the I.G. Farben trial, and in this capacity I screened material from I.G. Farben Behringwerke Gladenbach where I found the document later introduced as prosecution document NI-13590, exhibit 1866. The original document, which is now deposited with the OCCWC Document Control Branch, Nurnberg, is in exactly the same form as I found it, namely, pages 1 through 5, with page 5 signed by H. Neumann, followed by unsigned page 3a -6-.

I have carefully read this one-page affidavit, and have made the necessary corrections in my own handwriting, and initialed them, and declare herewith under oath that in this affidavit I have told the pure truth according to the best of my knowledge and belief.

(signature) Ruth L. Kempner
Ruth L. Kempner
U.S. Civilian A 400392

Sworn to and signed before me this 7th day of April 1948, at Nurnberg, Germany, by Ruth L. Kempner, known to me to be the person making the above affidavit.

(signature) John J. Boll
John J. Boll
U.S. Civilian, AGO
A 344412, Office of
Chief of Counsel for
War Crimes

Dr. Otto Melte
Defense Counsel,
Justice Palace, Room 535
Munich

Munich, March 30th 1948

To
Military Tribunal
Munich

1000
FILED 31 March 1948
Secretary General
for Military Tribunal
Defense Center

Subject: Case VI, matter against Krauch et al.
evidence of Professor Dr. Heinrich ROERLEIN.

I herewith move:

- 1.) to strike as inadmissible the document NI-13590 submitted by the prosecution as Exhibit 1866;
- 2.) to strike from record the questions of the Prosecutor, based on the inadmissible document NI-13590, during the cross-examination of Professor Roerlein.

Reasons

The Prosecutor Mr. Minskeff, in the morning session of February 5, 1948 during the cross-examination with the defendant Professor Roerlein, offered the document NI-13590 as Exhibit ¹⁸⁶⁶ for identification (page 6493 of the German and page 6436 of the English transcript) and later he offered it in evidence (page 6501 of the German and page 6444 of the English transcript). The document concerned consists of 8 pages in German.

The Prosecutor introduced this document with the following words:

" Dr. Roerlein, I show you NI-13590, which we asked be marked as Prosecution's Exhibit 1866 for identification, which is a report of Dr. Heinrich Neumann wherein it is stated - it's page 4 of the English - I think it's the last page of the document before you - that Mragowsky is conducting experiments with vaccines produced by various means which are being put at his disposal by Marburg so as to establish whether there are any differences which speak in favor of

one or the other production method, and I ask you whether that refreshes your recollection as to whether you did, in fact, receive a report on the Krugowsky experiments. "

Mr. Minskoff asserts that this document NI-13590 is a report, made by Dr. Heinrich Neumann, and he refers expressly to the last page of the document (page 6 of the German). As it can be seen from that, the prosecution states:

- 1.) that the document NI-13590 in its totality is a report of Dr. Neumann;
- 2.) that especially page 6 belongs to this report. ✓

The statement is unjust.

Dr. Neumann's report concludes on page 5 of the German text. Page 6 of the German text has not been made by Dr. Neumann and has never formed a part of his report.

Page 6 is part of a file-note made by director Zahn on a discussion with Dr. Demnitz. The Prosecution has not submitted this file-note. I produce a photostatic copy of the complete memorandum and an affidavit of the author, director Zahn, which is document Hoerlein Nr. 144, Exhibit Nr. 108.

From the memorandum Zahn, number 2 (page 1 and 2) has been taken out, put together on a separate paper with an adhesive and then added to the memorandum Dr. Neumann. By this means the impression is provoked, that one has to do with a part of Dr. Neumann's memorandum.

Counsel of the Prosecution when presenting the document NI-13590 had to know that page 6 of the German text did not belong to Dr. Neumann's memorandum.

I presume that the 6 pages of document NI-13590 have been found by Mr. Minskoff's office in the form as they have been deposited with the document center. But it is to assume that a copy of the memorandum Zahn signed by himself which I am producing now, must have been in the same folder from which the memorandum Neumann was withdrawn.

If the Tribunal permits to have the original of the document laid before it, it will state the following:

- 1.) Page 6 is formed by two parts which have been put together
- 2.) Page 6 has no continuing page number
- 3.) Page 6 begins with number 2 and there is no number 1 to be found.
- 4.) Page 6 carries no signature

5.) From paragraph 1 follows clearly that Dr. Neumann cannot be the author of this page, because it reads:

" The erection of a Typhus institute at Lemberg is to be started urgently with full backing by the authorities. Director of the institute will be Dr. Haas. With respect to more details on the planned institute there exists a memorandum by Neumann."

(Emphasis by defense counsel)

If Neumann had been the author he would not have written: " exists a memorandum by Neumann. "

Owing to these facts it seems not permissible to offer to a witness during cross-examination page 6 of document NI-13590 as being a memorandum by Neumann and to introduce the document as documentary evidence, complete in itself with the designation " memorandum of Dr. Neumann " .

(Dr. Otto Helte)

Defense counsel

Dr. Dr. Otto N E E E
Verteidiger beim Militä-
taergerichtshof Nr. VI
N u e r n b e r g
Defense Center.

417
(16)
1000
FILED 31 Mar 1948
Secretary General
Den 30. März 1948

An den

Militaergerichtshof Nr. VI

in N u e r n b e r g

Betr. Fall Nr. 6 Verfahren gegen Krauch a. Andere
Beweisführung für Prof. Dr. Heinrich Hoerlein.

Ich stelle den Antrag:

- 1). das von der Anklagebehörde als Beweisstück 1866 eingeführte Dokument NI-13590 als unzulässig zu streichen;
- 2). die auf die unzulässige Urkunde gestützten Fragen des Herrn Anklagevertreters im Kreuzverhör mit Prof. Hoerlein aus dem Protokoll zu streichen.

BEGRUENDUNG:

Der Herr Anklagevertreter MINSKOFF hat in der Sitzung vom 5. Februar 1948 vormittags im Kreuzverhör mit dem Angeklagten Prof. Hoerlein das Dokument NI-13590 als Anklagebeweisstück 1866 zunächst zur Identifizierung (Seite 6493 dtische. Prot. Page 6435 engl. Prot.) und später als Beweismittel (Seite 6501 dtische. Prot., Page 6444 engl. Prot.) angeboten. Das angebotene Dokument besteht in deutscher Sprache aus 6 Seiten.

Der Herr Anklagevertreter hat dieses Dokument mit folgenden Worten eingeführt:

"Herr Dr. Hoerlein, ich zeige Ihnen NI-13590, das wir baten, als Anklagebeweisstück 1866 zur Identifizierung bezeichnet zu werden. Es ist ein Bericht von Dr. Heinrich Neumann worin es heisst und zwar auf Seite 4 des engl. Textes -ich denke, es ist die letzte Seite des Dokuments vor Ihnen, dass Dr. Mrugowsky Versuche mit Impfstoffen durchführt, die aus verschiedenen Mitteln hergestellt sind und die ihm von Marburg zur Verfügung gestellt wurden, um festzustellen, ob Unterschiede bestehen, die zu Gunsten der einen oder andern Herstellungsmethode sprechen würden. Ich frage Sie, ob das dahingehend Ihr Gedächtnis auffrischt, ob Sie tatsächlich einen Bericht über die Versuche Mrugowsky's erhalten haben?"

Herr Minskoff behauptet hier, dass das Dokument NI-13590 ein Bericht von Dr. Heinrich Neumann sei, und weist ausdrücklich auf die letzte Seite des Dokumentes (Seite 6 des deutschen Textes) hin. Die Anklagebehörde hat danach vorgetragen:

1. dass das Dokument NI-13590 in seiner Gesamtheit ein Bericht des Dr. Neumann sei;
2. dass insbesondere Seite 6 zu diesem Bericht gehöre.

Diese Behauptung ist unrichtig.

Der Bericht des Dr. Neumann schliesst mit der Seite 5 des deutschen Textes ab.

Die Seite 6 des deutschen Textes stammt nicht von Dr. Neumann,

gehörte niemals zu dessen Bericht und bildete niemals einen Teil seines Berichtes.

Diese Seite 6 ist ein Teil einer Akten-Notiz, die Direktor ZAHN ueber eine Besprechung mit Dr. DEMNITZ verfasst hat.

Diese Akten-Notiz ist von der Anklage nicht vorgelegt. Ich lege eine Fotocopie der vollständigen Akten-Notiz und ein Affidavit des Verfassers Direktor ZAHN als Dokument Hoerlein Nr. 125, 144 Exhibit Hoerlein Nr. 106 vor. Aus der Akten-Notiz ZAHN ist Ziffer 2 (Seite 1 und 2) entnommen, auf einem besonderen Blatt zusammengeklebt und dem Bericht Dr. Neumann angeheftet. Dadurch wird der Anschein erweckt, dass es sich um einen Teil des Berichtes Dr. Neumann handele.

Der Herr Anklagevertreter, der das Dokument NI-13590 vorgelegt hat, musste wissen, dass die Seite 6 des deutschen Textes nicht zum Bericht von Dr. Neumann gehörte.

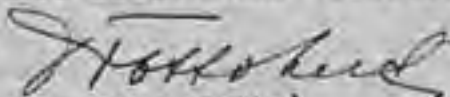
Ich unterstelle, dass die 6 Seiten des Dokumentes NI-13590, so wie sie im Dokumentenraum hinterlegt sind, vom Büro Minskoff gefunden wurden. Es ist aber anzunehmen, dass sich eine Copie der jetzt von mir vorgelegten Akten-Notiz ZAHN mit dessen Unterschrift in derselben Korrespondenzmappe befunden haben muss, aus der der Bericht Neumann entnommen wurde.

Wenn sich das Hohe Gericht das Original des Dokumentes vorlegen lässt, wird es Folgendes feststellen:

1. Die Seite 6 besteht aus zwei Teilen, die zusammengeklebt sind.
2. Die Seite 6 hat keine fortlaufende Seitenzahl.
3. Die Seite 6 beginnt mit Ziffer 2, ohne dass vorher eine Ziffer 1 zu finden ist.
4. Die Seite 6 trägt keine Unterschrift.
5. Aus dem Absatz 1 geht klar hervor, dass Dr. Neumann nicht der Verfasser dieser Seite sein konnte; denn er lautet:
"Die Errichtung eines Fleckfieber-Institutes in Lemberg wird unter weitgehender Unterstützung durch die Behörden beschleunigt in Angriff genommen. Leiter des Institutes wird Dr. Kaas. Ueber nähere Einzelheiten in Bezug auf die geplante Anlage liegt ein Bericht von Neumann vor."
 (Unterszeichnung von mir).

Wenn Neumann der Verfasser gewesen wäre, würde er nicht geschrieben haben "liegt ein Bericht von Neumann vor".

Bei dieser Sachlage erscheint es unzulässig, einem Zeugen im Kreuzverhör die Seite 6 des Dokumentes NI-13590 als einen Bericht Neumann vorzuhalten und das Dokument als einheitliches Beweismittel mit der Bezeichnung "Bericht des Dr. Neumann" einzuführen.


 (Dr. Otto Helte)
 Verteidiger.

/N.H.Sch.

4/18
①

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NUREMBERG, GERMANY
24 APRIL 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

FILED: 5 May 1948 with
Case No. 6
Secretary General
for Military Tribunal
Nuremberg Center

ORDER

On consideration of the motion of the defendant Gattineau, dated 17 December 1947, and 7 January 1948, which moves that the Tribunal may rule that Control Council Law No. 10 does not constitute a basis for this trial; and motion of 6 April 1948, which moves (1) that the arguments of the IMT judgment are not binding for the American Military Tribunal; (2) "in this connection" that the counts of the indictment on conspiracy and aggressive war be dropped; (3) these proceedings be immediately suspended,

IT IS ORDERED that each and all of the above motions are denied.

David E. Shaw
Presiding Judge

James M. Murn
Judge

Paul M. Hebert
Judge

Clair T. Morgan
Alternate Judge

Dated this 26th day of April 1948

PROSECUTION NOTIFIED

5 May 1948 LOR
PROSECUTION NOTIFIED 2091

(See Order dated 10 May 1948 superseding above Order.)

418
②
0900
FILED 26 April 1948
Secretary General
for Military Tribunals
Date: 26 April 1948

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

KRAUCH and Others (Case VI)

ANSWER TO A MOTION ON BEHALF OF THE DEFENDANT GATTINEAU
THAT THE PROCEEDINGS BE SUSPENDED, ETC.

To: The Secretary General, Military Tribunals (Room 281).

1. Answer is made to the motion of Dr. Aschenauer, counsel for the defendant GATTINEAU, dated 6 April 1948 (filed 23 April 1948) which moves (1) that the arguments of the IMT judgment are not binding for the American Military Tribunal; (2) "in this connection" that the Counts of the indictment on conspiracy and aggressive war be dropped; (3) these proceedings be immediately suspended. This motion adds nothing to the 23 page motion by Dr. Aschenauer, dated 17 December 1947 which Dr. Aschenauer attempted to read into the record as a motion and later succeeded (partially) in reading during his "opening statement" (sic) on 19 December 1947. Our answer of 19 December 1947 to this former motion is therefore incorporated herein by reference and made a part hereof. Dr. Aschenauer filed a similar motion and made similar arguments in the Glendorf Case. (Since Dr. Aschenauer refers to his opening speech in the Glendorf Case, pages 14-15 of the present motion, it is only appropriate to point out the denial of his motions by Tribunal II in Case No. IX.)

2. In our view this second motion is less in the nature of a motion than in the nature of a propaganda-like "dissertation", which bears a strange resemblance in tone, manner of argumentation, and strategy to the tactics (never better developed than in the 12 years of the Third Reich) by which an effort is made to distract the sober-minded from an objective consideration of the real facts and issues. The IMT (as pointed out in our answer to the earlier motion) made short shrift of a much less dramatic maneuver contained in a 2 page motion of the defense in the IMT Case on 19 November 1945 (see paragraph 5 of our answer of 19 December 1947 to Dr. Aschenauer's motion of 17 December 1947).

3. It is rather striking to note the attempts to extract from the basic war guilt the political and economic leaders of Germany - as well as their associates, accomplices and those who ratified aggression in the hope of self enrichment - by references (however distorted they may be) to the months and even years before Germany committed the first aggressive act of a major power since the first World War (excluding, of course, the aggressions of Germany's Fascist allies, Italy and Japan, in Abyssinia, Manchuria and China). By hindsight it is argued in many quarters that the Western powers should have not allowed a Munich agreement under the bold threat of further German aggression, even though they were seeking time to re-arm to cope with the unbelievable re-armament of Germany. With hindsight it is often argued that it would have been better for all of the Allied powers to have had no traffic with the aggressor, even if such traffic was calculated to improve their position to resist later anticipated aggressions by Germany. But all this has nothing to do to the establishment and maintenance of a legal machinery for the enforcement of international law which must encompass Crimes against Peace if humanity is to survive. Although many new problems have troubled the world, the most grave of these result directly from the consequences of German's aggression. Even if this were not so, it is never too late to strive to develop the machinery and practice of an international law which will act as a deterrent to those (whomsoever they may be) who would recklessly plunge humanity into the consequences of further aggression, with any attendant spoliation, plunder, slave labor and concentration camps. It is anomalous, indeed, to hear at this stage of history (after all which most men suffered by this war) such statements as the following:

"If one considers and weighs the deeds of Goering and others, which were judged by the IMT, in this light, the one-sidedness and incorrectness of the arguments on which the judgment of the IMT was based become quite obvious".

"The indictment proceeds from the assumption that these crimes were perpetrated solely and alone on the German side. Now it appears that these crimes were, to a large extent, perpetrated by the 'legislators', i.e. by the allied (Soviet) side. Therefore, the validation of these charges by the allied side violates the principle of 'Tu quoque'."

"If we assume however, that IG Farben - which is not the case - negligently aided in the bringing about of an aggressive war and were from a legal point of view - 'accessories', then the following must be stated: The same reproach can be made to the Western and Eastern Allies".

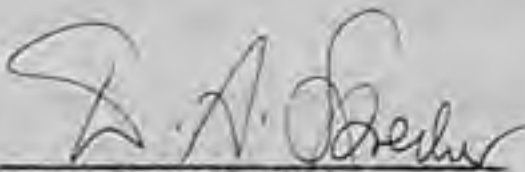
"Since, however, reciprocity and universality - which up to now have been only very vaguely indicated - have remained up to the present an example of 'wishful dreaming', it would seem appropriate not to gaze hopefully into the future, but critically at the present".

"Current publications show that the London Charter could create no new international law because it rests on morbid foundations".

4. There is considerable mention of the "tu quoque" doctrine in the defense motions. The Tribunal has already ruled on that principle in an analogous matter in rejecting SCHNEIDER exhibit 107 (alleged compulsory work in the Soviet Union by an actress), stating: "If two wrongs are committed, it does not make a right. The objection is sustained". (T. 7668-9)

5. WHEREFORE, it is respectfully requested that the motions of Dr. Aschenauer (17 December 1947 and this motion) be denied in their entirety.

By:


D. A. SPEECHER
Chief, FARREN TRIAL TEAM

For:

TELFORD TAYLOR
Brig. Gen. USA
Chief of Counsel

Munberg 24 April 1948
(Date)

418
4a

MOTION CASE VI

Rudolf A s c h e n a u e r
Counsel for the
Defendant Gattineau

Nuernberg, 6 April 1948

To the
Secretary of the
American Military Tribunal
N u e r n b e r g
(Case VI)

850
FILE 23 April 1948
S-111
D-111

I submit the following motions:

- 1.) The arguments of the IMT - judgment are not binding for the American Military Tribunal.
- 2.) In this connection we move that the count of the indictment "Conspiracy and aggressive war" be dropped immediately.
- 3.) Furthermore the immediate suspension of proceedings is requested.

R e a s o n s :

1.

In the summer of 1946 an article which attracted considerable attention, was published in the United States; one of the foremost experts on Soviet Russia, William C. Bullitt, published his "Approach to the Soviet Union". In an impressive manner the assertion was made here based on a description of the historical development of the USSR, that - notwithstanding her treaty with the Anglo-Saxon powers, notwithstanding the agreements reached at Teheran, Yalta, Moscow and Potsdam - the USSR continues to pursue her policy of undermining the existing world order.

Treaty obligations meant nothing to the USSR. Every attempt to judge the foreign policy of the Soviet Union on the basis of her ever changing short-term individual measures leads to grotesque and incorrect results. There is no secret about Soviet foreign policy. Now as ever Stalin's guiding principle applies - I quote: "The goal of our

foreign policy always remains the same: establishment of a communist dictatorship throughout the whole world".

ambassador Bullit, - in contrast to the authors of the IMT-judgment-, has judged the goal of Soviet-Russian policy correctly. The IMT-judgment represents the mode of action of the defendants Goering and others, unconnected with the everpresent Bolshevik aggression since 1917. The IMT-judgment presupposes the exclusive guilt for the second world war of the Fuehrer of the Third Reich and the absolute and permanent solidarity of the allied powers. Thereby the arguments of the IMT-judgment were, to a large extent, false. Today these illusions have vanished. The "paper-war" between the USA and the USSR, which started with the American publication of the German-Soviet secret treaty of 23 August 1939 and was taken up by the USSR with the collection of documents "Forgers of History" (*Geschichtsfälscher*), has at least led to the fact being recognised that an isolated consideration of the guilt of the Fuehrers of the Third Reich for the outbreak of war is not possible and that it would simply preclude the ascertainment of the objective truth - the aim of every court proceedings.

In contrast to the state interpretation of "Capitalism", meaning all those states which are not Bolshevik, the Soviet State does not consider itself as something firm and permanent, something sufficient into itself, but as a mere temporary structure, as an instrument of power of the organised proletariat, led by the Communist Party entrusted with its mandate to bring about world revolution. The idea of revolutionizing the world is logically and tactically inseparable from the Bolshevik state (the so-called "communist transition state"). Either ^{by} internal insurrection ("indirect aggression") or by aggression from the outside the Bolshevik state will overthrow the structure of society existing in the non-Bolshevik states and

NOTION CASE VI

- 3 -

will annex, one after the other, the states which have fallen to Communism until the goal of a world soviet republic is achieved. In this fight, or as Bolshevism expresses it, in this dialectically inapplicable process, tactical interruptions of the fight can and may arise (such as the NEP-and the Reconstruction period of the Bolshevik state from 1921 to 1929)-, but the long-term goal of Bolshevism will not be adversely affected by these pauses, not even by the temporary moving back of boundary posts, or by temporary, apparent digression from the plan of world revolution: the Bolshevik state would humbug itself and renounce the mission which carries it onward, were it to forget its prescribed trajectory. But the Bolshevik state lies forever in wait for an opportunity to realize the idea of expansion by which it is born ideologically forward, and is forever in ideological contrast to the other states, which are governed by the principle of permanency:

"Only the final victory of socialism offers full security from all attempts at restoration, since an attempt at intervention which would have to be taken seriously, is only imaginable with the full support of international capital. Therefore the support of our revolution by the workers of all countries, and especially the victory of the workers in some states, is an essential prerequisite for the complete security of the first victorious state (the Soviet-Union, Transl.remark) from all attempts at restoration and intervention". (Stalin: Problems of Leninism, Moscow, 1931, P. 221).

In this connection I do not wish to go into details of the policy of aggression and intervention existing and consistently pursued by the Soviet Union since 1917. This- by now- is sufficiently well known and has already become an historical fact. It seems important to me, however, to establish that it is wrong to consider as two legally and dynamically separate factors the Communist Party and

- 4 -

its organization on the ^{one} hand and the Soviet-Union State on the other. - large number of the interventions attempted by Bolshevism since its establishment, did not originate with the State administration, but with an organization which is legally separate from the state administration as well as from the VKPS (United Communist Party of the USSR) in which constitutional power is vested: the Communist International. Official Soviet political science has denied any legal connection between the Soviet-Union State and the Komintern. But this interpretation has been received with little confidence abroad. In order to give tangible proof of the departure of the Soviet state, loyal to the principles of international law, from the dynamically revolutionary and interventionist Komintern, the Kremlin, in an effort to prove itself particularly acceptable as an ally, ordered the dissolution of the Komintern in May 1943. As this consideration for the Allies no longer seemed necessary, the Komintern was revived in 1947 under the name Kominform. According to actual circumstances the Komintern, or Kominform, as well as the Soviet-Union State are only instruments of a power which governs them both equally: the central administration of the Communist Party.

It is a mistake to push the state organization of the Soviet-Union into the foreground and to discuss first and foremost the state-organs and their functions, in order - and not till then - to return to the subject of the factors of the actual formation of the political will: the Communist Party and its sub-and branch organizations (Komintern or Kominform). The right way is just the opposite. The organization of the bolshevist state

can only be explained in the organization of the Communist Party:

and
one must know/always bear in mind, that the whole legal and factual constitution of the USSR is based on the fact that the Party governs, appoints and organises

- 5 -

everything in accordance with a certain guiding principle"

(Lenin, Vol. XVIII P. 118)

This is rendered also by the Party Statutes in a similar manner:

"The Party governs all organs of proletarian dictatorship
and ensures the successful construction of socialist society".

According to Stalin (Problems of Leninism, Chapter VIII) the Party is the "General staff of the proletariat", "without the directives of which no important decision of the mass organisations of the proletariat can be brought about"; according to Lenin the party is the directly governing "avant-garde of the proletariat", and in debates on Soviet State law the fact is not disguised that the Party is that centre of power which governs and controls the state administration established by it as a whole as well as in its most-detailed ramifications, so that "nothing can be realized in the state without or against the will of the Party." The Constitution of the Union^{too} in art. 126 considers the Party to be "the core, governing all state organizations of the working people".

Thus the passive connexion of the state to the Central Party offices is not denied even by the official or officious bolshevist body of commentators. All the more thorough were the efforts to deny the connexion between the party and the state on the one hand and the Komintern on the other. These attempts cannot be considered to have been successful. Even the statutes of the Komintern - a "legally" harmless documentation - after all oppose this. In the introduction to the statutes of the Komintern it is expressly stated:

"The Communist Party of the Soviet Union (VKPB) is a section of the Komintern",

while on the other hand the program of the NKPS expressly decrees that it is the task of the Party to give every support and assistance to the organization and activity of the Komintern. In contrast to this the program of the Komintern states:

"The USSR will be the basis, the central seat of international revolution because it plays the part of the motive force of the international proletarian revolution, which drives the proletarians of all countries to seize power, - it plays the part of prototype for relations between all the peoples of the world in the Union of Socialist Soviet Republics of the world (Art. 67)".

Finally it may be pointed out that -until the dissolution of the Komintern in 1943- the degree to which the most important offices in state and komintern were filled by the same persons was startling- to say the least. Thus, from the holders of the highest official state positions in the USSR following were at the same time the highest officials of the Komintern: Stalin, Kalinin, Bolotov, Kaganowitsch, Mikojan, Sedatashka, Losowski, Koraszilow, Kochlis and Skierow.

The undeniable legal connexion, the admitted personal connexion and the dynamic connexion resulting from Party discipline, of the Komintern to the NKPS and thereby to the State of the Soviet Union justify the deduction that attempts at intervention - which the State of the Soviet Union designates as Komintern actions, uncontrollable by it (the State)- prove, from the point of view of international law, that the Soviet Union itself is their originator and responsible for them.

This had to be said beforehand. Only from these aspects can one understand the events which led to the outbreak of war in 1939. All this has been misjudged by the I.H.T. It was not recognised, that since 1917 - to use the expression of the indictment - a conspiracy existed in which the Moscow Political Central Offices ingeniously reckoned with the results of the

418
49

MOTION CASE VI

- 7 -

of Versailles and the effectiveness of the National Socialist Party and in part directed its activity into certain channels.

In order to prove this the following documents have been submitted:

No. 302: Moscow supports the rearmament of the German Wehrmacht.

No. 303: Affidavit Arnold Weckberg: Moscow supports Hitler's election campaign 1930.

" 304: Russian Embassy declares 1932: Moscow desires the seizure of power by Hitler.

" 305: From Mennilsky's speech on 5 June 1932: "Under the circumstances our primary goal must be to bring Hitler's accession to power in Prussia".

" 306: Excerpt from "The Straight Road" (Der Gerade Weg) of 24 April 1932, permeation of the NSDAP by order of the Komintern.

" 307: Permeation of the NSDAP by order of the Komintern.

" 308: Affidavit Dr. Weitzmann. Dr. Weitzmann, the nephew of Dr. Fritz Gerlich, who was publisher of "The Straight Road", and was murdered in the Dachau concentration camp, on origin of the Russian Reports.

" 309: Training of "Gestapo-members" in GPU Schools (Original in the document library of Military Tribunal III).

" 310: Permeation of the NSDAP by elements loyal to Moscow.

" 311: Soviet Union the firm basis of proletarian revolution.

" 312: Import of a Stalin speech before the Supreme Soviet.

" 313: Excerpt from "Betrayal of Europe", Red Book, published in 1938 for the Bolshevization of Czechoslovakia.

" 314: Plans for an aggressive war by the Soviet Union.

Furthermore excerpts from the American compilation "Fazi-Soviet Relations 1939/41", The Department of State 1948, which contain important data from the year 1939.

Doc. No. 315: 17 April 1939. The Soviet Ambassador indicates the possibility of improved relations between the Soviet Union and Germany.

No. 316: 5 May 1939. The Soviet Charge d'affaires Astakhov tries to learn whether Litvinov's dismissal will affect Germany's attitude toward the Soviet Union.

No. 317: 17 May 1939. Astakhov declares, that there is no reason for enmity between Germany and Soviet Russia; he mentions the Treaty of Rapallo.

MOTION CASE VI

- 8 -

- 418
421
- No. 318: 20 May 1939, Molotov declares, that the establishment of "political principles" must precede new economic negotiations; both governments should think about it.
 - No. 323: 30 May 1939, Astakhov states, that the ideological barriers between Moscow and Berlin have been erected by Germany and that Germany had declined a Russian offer of alliance, before it concluded the treaty with Poland.
 - No. 325: 15 June 1939, Astakhov conferred with the Bulgarian Ambassador; if Germany concludes a non-aggression treaty with the Soviet Union, the latter would probably refrain from concluding a treaty with England.
 - No. 328: 27 July 1939, Astakhov declares that an approach to Germany would be in the vital interests of both countries; this would, however, have to be done slowly and step by step.
 - No. 329: 29 July 1939, Astakhov intimates the possibility of discussions between a prominent representative of Germany and of Soviet Russia.
 - No. 330: 3 August 1939, Astakhov declares, that if Moscow's attitude were a positive one, there would be no problem from the Baltic to the Black Sea, which could not be solved between the two countries.
 - No. 331: 4 August 1939, Molotov abandons his usual reserve and evinces obvious interest in the Polish question.
 - No. 332: 7 August 1939, Ambassador Schulenburg to Legation Councillor Schliep on 7 August 1939: is of the opinion that the Soviets no longer wish Germany to give guarantees to the Baltic States.
 - No. 333: 10 August 1939, Astakhov declares, Soviet Russia had started negotiations with England without much enthusiasm; tries to learn the nature of German aims concerning Poland.
 - No. 334: 14 August 1939, Molotov comments that it would depend on Germany itself, that a solution in the Polish question would not be forced onto it.
 - No. 342: 18 August 1939, Molotov advocates strongly that a protocol be drawn up, which should, among other things, contain the German statements of 15 August; Schulenburg requests more detailed information regarding the Russian wishes concerning the protocol.
 - No. 347: 23 August 1939, Russians demand recognition of the fact that Libau and Windau are within their sphere of influence.
 - No. 348: Secret supplementary protocol of 23 August 1939, Recognition that Finland, Estonia and Latvia as well as the eastern part of Poland will be part of the Russian sphere of influence if a territorial reorganization in these territories takes place.

If events after 1945 are included, one can recognize a criterion of the period since 1917 the systematic planning and carrying into effect of a forcible

Bolshevization of Europe and Asia by the USSR, the realization of the general "conspiracy", carried into effect by Komintern and Kominform, SMA and military government.

If one considers and weighs the deeds of Goering and others, which were judged by the IMT, in this light, the one-sidedness and incorrectness of the arguments on which the judgment of the IMT was based become quite obvious.

The shifting of the circumstances of guilt as taken for granted by the IMT becomes evident from the international point of view. Shortly summarized:

The responsible German elements believed themselves to be the moving factor, but were themselves being moved. They were used as figure-heads by the USSR whose goal it was to let loose the dogs of the so-called "second imperialistic war" (1939-1945). Seen from the international angle the objective contribution to the deed of disturbing the peace of the world made by Goering and others becomes merely aiding and abetting in a foreign, far more extensive plan of destruction. Insofar the German actors are - from the objective point of view - not guilty as main offenders but merely guilty of aiding and abetting.

(In order to eliminate all possibility of a misunderstanding I add: The subjective angle in the case of the sentenced offenders is, however, quite different. It is for this reason that from the German angle they are considered to bear the main responsibility!)

II.

In the Trial against Erasmich et al the indictment has charged the defendants with crimes against the peace. On page 1 of the indictment it states:

MOTION CASE VI

- 9a -

"These crimes included planning, preparing, initiating and waging
and
wars of aggression/invasions of other countries,
as a result of which incalculable destruction was brought
throughout the world, millions of people suffered and are
still suffering; ..."

Page 6:

"All of the defendants, acting through the

4/8
46

MOTION CASE VI

- 10 -

instrumentality of FARREN and otherwise, with divers other persons during a period of years preceding 8 May 1945, participated in the planning, preparation, initiation and waging of wars of aggression and invasions of other countries, Crimes against Peace, as defined by Article II of Control Council Law No. 10."

Page 89 states:

" Count Five; Common Plan or Conspiracy; All the defendants, acting through the instrumentality of FARREN and otherwise, with divers other persons, during a period of years preceding 8 May 1945, participated as leaders, organizers, instigators and accomplices in the formulation and execution of a common plan or conspiracy to commit, or which involved the commission of Crimes against Peace as defined by Control Law No. 10..."

In this count too the indictment presupposed the correctness of the arguments on which the IMT judgment is based. In my statements under I I proved, that the arguments on which the IMT judgment is based and to which the indictment repeatedly refers, are incorrect. In consequence thereof the main argument of the indictment on which the assertion of the crime of conspiracy of the defendants in order to bring about an aggressive war rests, as well as for its establishment of guilt or complicity in the crime against peace, has collapsed.

For this reason the Court can already render a decision on these counts now. The motion to drop these counts of the indictment is fully justified.

Furthermore the following must be considered: The indictment proceeds from the assumption that these crimes were perpetrated solely and alone on the German side. Now it appears that these crimes were, to a large extent, perpetrated by the "legislators", i.e. by the allied (Soviet) side. Therefore, the validation of these charges by the allied side violates

418
42

- 11 -

the principle of "Tilquaque". Furthermore it is obvious, that the defendants, the directors of IG-Farben, could not, by the nature of their enterprise, have any part in the actually existing conspiracy against the peace of the world, as represented under I. The evidence so far has demonstrated this sufficiently. If we assume however, that IG Farben - which is not the case - negligently aided in the bringing about of an aggressive war and were from a legal point of view - "accessories", then the following must be stated: The same reproach can be made to the Western and Eastern Allies. It must be stated that the Western allies assisted the crimes which were later perpetrated by German organizations by supporting a regime, the criminal nature of which was more easily recognizable to them than to the German industrialists.

In this connection I refer to Document Book II Petersen submitted by me; I request the Court to take official note of this. Among other things this includes on the part of England:

- 1.) the conclusion of the Munich Agreement on 20 Sep 1938
- 2.) the continuation of diplomatic relations with the Third Reich even after the invasion of the remainder of Czechoslovakia.
- 3.) the supply of 9575 tons of nickel by British firms between January and September 1939.

In this connection I request the Court to refer to the book "Your MP", which was written under the penname "Gracchus" in 1944 and published by Victor Gollancz in London.

On the part of Soviet Russia this set of problems includes the Agreement concerning supply of material, concluded with the German Reich in the years 1939/41, whereby - as included in the Soviet plans - the German Wehrmacht was enabled to invade France and the Kingdom of Yugoslavia.

- 12 -

Up to the present the opinion expressed by the IMT in the first trial was diametrically opposed to the fundamental and comprehensive validation, in law, of the principle of "tu quoque". In this trial the tribunal did not permit the defendants to make reference to the infringements of the law committed by the Allies. According to the rulings of the IMT which have become precedents for the remaining trials, the validation of this objection would continue to be formally inadmissible. But, as already stated, the opinion of the IMT is, to a great extent, incorrect. The IMT judgment contains errors, and, therefore, can no longer be considered binding. Then the IMT judgment was based on the legal solidarity of the Allies. There can be no talk of that to-day.

For these reasons the precedent created by the IMT, the ban on the application of "tu quoque", has suffered the fate of all precedents. Events and the accompanying necessity of facing new problems cause it to be regarded as outdated. This must be assumed all the more, as this precedent has had no absolute effect up to the present on individual cases. (cf. Grove-Kuester, Nuremberg, 1948, P.8)

It is admitted that, according to general conviction, in the internal law of a state a defense based on the "tu quoque" principle is inadmissible. In internal law it is not possible to object to the judge that the sentencing of a defendant is not permissible because a third party was guilty of the same deed. This applies even when the allegations of complicity or aiding and abetting are directed against the defendant. Punishment is meted out, fundamentally, to the individual. Basically the defendant is in "isolated" opposition to the punishing state. Perfectly justly. For according to the constitution of the state conducting the proceedings the law-making and law-applying institutions on the one hand and the person accused on the other.

in "~~tu~~ Quoquo" on the other are separated not only under law adjective but also under substantive law.

It is true that also in internal law punishment has developed from revenge. Originally there was no public prosecutor or state judiciary. The injured party obtained justice for himself either by means of revenge or by forcing reparation. It was not until advances were made in cultural development that revenge and reparation became an object of general interest. The people as a whole regulated the proceedings by which the settlement was to be made and they nominated the authorities (Prosecutors and judges), who, henceforth, were responsible for looking after this public interest.

According to internal law, therefore, the administration of justice was removed, to a great extent, from the hand of the injured and interested parties. The law under which investigations are to be made and sentence is to be passed is laid down by the general public for whom the desire for uniformity and a guaranty of settlement takes precedence over the lust for revenge: revenge is transformed, in internal law, into punishment. But also the application of these rules is no longer left to the individual injured parties. The state rather nominates neutral authorities whose duty it is to bear the responsibility for settlement by punishment.

Consequently it is obvious that the internal criminal procedure law of a state cannot recognise the "tu quoque" principle. Legislation and proceedings are here placed in the hands of a higher, neutral power. Legislator and judge on the one hand and the injured party and the offender on the other are separated each from the other not only under law adjective but also under substantive law. Finally the unanimous interests of all persons protected by law, that is the citizens comprising and represented by the state, in the conduct of proceedings and the redress of wrongs, are undeniable and uncontested. It is extremely significant that this thought must also

- 14 -

have played a part in the subconscious mind of the originators of the London Charter and the judges in the IMT trial. For it is quite obvious in that case, and also in this, that an endeavor was made to give the London Charter and Control Council Law No. 10 the character of "an internal German law". An attempt was made to suppress the treaty-like nature of these legal rules and to bring into the foreground its law-like character. (see Grewe-Euester loco citato, page 23). Similarly also the statement in the IMT judgment page 23: "The London Charter was formulated in the exercise of the sovereign power of legislation of those states and the uncontested right of those countries to enact laws for the occupied territories., has been recognised by the civilised world"....

Why these endeavors, why in particular the very artificial application of the Hague Rules for Land Warfare the invalidity of which, for Germany, the Allied Powers otherwise delight in emphasising? The answer is quite clear. The IMT trial - and most particularly the subsequent trials based on Control Council Law No. 10 - was to be made to appear as if the court "was passing judgment on the basis of semi-national law" (Grewe-Euester loco citato, P.23.) and for just that reason any objection based on the principle of "tu quoque" should be rejected. Consequently the Nuremberg court would also have been placed in possession of that inestimable privilege of passing judgment via "neutral authorities", i.e. judgment "by a higher arbiter", which otherwise is possessed solely by a court and Procedure formed under and based on internal national law.

I have already stated in these trials here in Nuremberg, however, that Control Council Law No.10 is substantially a treaty under international law and also a law enacted for occupied Germany (of my motion dated 17 December 1947, my opening

speech in the Ohlendorf case) and that its treaty-like nature is its decisive aspect. Therefore the ban imposed by internal law on the validation of a "tu quoque" objection to proceedings based on this ruling is not applicable.

The reasons for the admissibility of objections to a treaty under international law which would be inadmissible in internal law are obvious.

The group^{of} states applying international law can never be such a compact unit or such a consolidated whole as an individual state, however compact it may be in theory and - again in theory - no matter how unanimous its ideals may be. International law is, in every respect, more unstable, more easily available, less firmly consolidated than the internal law of a state; to use a slogan, it is treaty law not statute law and even where the existence of an international common law is asserted, it is, for the most part, more confused and more difficult to prove exactly than the national common law which applies within a state. This follows from the fact that the group of states subscribing to international law is not an authoritative organization possessing a compulsory arrangement of subordinated authorities, but is a relationship of states having equal rights who only fulfill voluntarily undertaken treaty obligations and who comply at most and to a very limited extent with the common law. As compared with the organization of an individual state, therefore, the group of states applying international law has far looser ties. It might also be described as a more primitive association. This applies particularly to international courts of arbitration and judicature. In spite of all attempts and endeavors it has not yet been possible to develop it into a system possessing a universality and authority comparable to that of the inter-state judicial system. The "gradation" of neutral judiciary organizations

which is the hallmark of internal law has, in this case, not reached the final stage of development or has been insufficiently developed as is found in a primitive legal community there is insufficient differentiation between judges, prosecutors, plaintiffs and offenders. The "arranging of one's own affairs" cannot be eliminated to the same extent as is the case - thanks to the sole authority of the state - in internal, national law.

This is most specifically applicable to international criminal law. No universal international criminal law exists as yet. The London Charter and the first Nuremberg judgment constitute, it is true, the forerunners of such a law. Since, however, reciprocity and universality - which up to now have been only very vaguely indicated - have remained up to the present an example of "wishful dreaming", it would seem appropriate not to gaze hopefully into the future, but critically at the present. And here there can be no doubt that:

according to the history of its origin and its actual application up to the present the London Charter is not a generally binding international criminal law that was created, without regard for person or state, for the restoration and future guaranty of justice, but is merely an international treaty by which the group of victor-states is pledged to call the leading men of the group of conquered nations to account under criminal law for certain deeds.

From the point of view ^{of} legal validity the following significant defects are to be found in the London Charter and Law No. 10 which is based upon it:

- a) The rulings are not universal. For by means all the states of the international group applying international law attended the London Convention; Law 10 is restricted entirely to the four major allied powers as signatories.

- 418
42
- b) The rulings are not reciprocal. For they only provide for the punishment of war criminals who were members of the nations who were conquered in the war. They do not include acts committed by the victorious powers and covered by the definitions of crime contained in the London Charter and Law 10.
- c) The rulings create extra-ordinary courts, namely courts which are intended to judge certain offenders and certain deeds on one occasion only.
- d) Finally, the rulings violate important principles of substantive criminal law which are recognized in criminal law by all civilized states. Amongst them is, primarily, the disregard of the principle "Nulla poena sine lege". In the second place the intentional commission of the internationally recognized grounds for justification and exculpation (acting on orders) should be mentioned.

Now in spite of these important defects of the London Charter and Law No. 10 these rulings could be considered as the real forerunners of a future international criminal law if they were actually based on the "opinio necessitatis" of all the states belonging to the group applying international law. This, however, is not the case.

It is worthy of note that the IMT judgment does not in any way overlook the weak position of the London Charter in relation to international law. This follows ^{from} the very diligent but by no means convincing endeavors of the judgment to ascribe the creation of the court and the sentencing of the war criminals to an international law which was already in existence and was not created but merely formulated by the London Charter. Had this been the case the London Charter (and with it Law 10)

- 18 -

would have enjoyed a considerable more secure position within the group of nations applying international law and in such a case the "Quoque" objection, although not fundamentally eliminated, would have been far more difficult to apply.

These attempts to represent the London Charter as being already valid international common law must, however, be considered to have failed. The mere fact that only a minority of states signed it speaks against it. It may, however, be considered to be decisive that the chief prosecutor for the USSR, Rudenko, specifically denied the existence of such an international common law, just as the international law doctrines of the USSR absolutely denies the possibility of the creation of international common law. For the USSR (cf. Grew-Kuester loco citato P.13 et seq.) the London convention is based constitutionally solely on the treaty system mutually ^{agreed} upon by the victorious powers (Source: The Moscow convention of October 1943), which dealt with the penal proceedings against the responsible men of the axis powers. Treaty law, not common law, is in the opinion of the USSR the basis for the international penal law for which the way has been paved. If, however, one of the major signatory states denies the existence of a corresponding international common law there can be no question of a "communis opinio" on the existence of such international common law. Results: The London Charter and Law No.10 which is based on it are merely treaty law.

That, however, is not sufficient. International law as agreed upon in treaties can, in certain circumstances, produce effects similar to those

of the authoritarian, internal law of a state; that is when that treaty law has become general treaty-law by the accession thereto of all or the overwhelming majority of the states. But that is also not the case.

a. In all only 19 states acceded to the Charter of 8 August 1945.

By their non-accession the remainder have implicitly given it to be understood that they do not recognise this type of world criminal jurisdiction.

b. Above all Germany did not accede to this convention. Her inclusion could only have been effectively waived had she ceased to exist as a state and a subject of international law. That this is not the case is a much debated question which needs no further special discussion.

Again the results:

the London Charter and Law 10 which is based upon it are, even from the most favorable point of view, partial and not generally binding international treaty law.

By Soviet Russia leaving the Control Council, however, even this partial international law is broken.

Viewed from the standpoint of international law the conclusion may be drawn - it is of no further interest in other connections - that these rulings constitute only "Jus inter partes". The conclusions for the judgment in criminal procedure law and penal law of this complete international penal law is more significant, particularly for the admissibility of the "tu quoque" objection.

In the above the London Statute and Law 10 which is based upon it have been classed as a convention under international law which had as its objects the punishment of the responsible men of the conquered states. It has been stated that the mere lack of reciprocity in this treaty -

the failure to prosecute the crimes committed by the victors - endows the proceedings with the character of extra-ordinary proceedings and stamps the Nuremberg Military Tribunal as an extra-ordinary court but thereby violates the international principle.

"No one may be removed from the jurisdiction of his legal judge". In spite of this in an extreme case one might be satisfied with an ad hoc court if another elementary principle of internationally recognized legal procedure was not violated by the London Charter. The London Charter introduces judgment of one's own case.

In the first place the fact is presented that, in our opinion, the organizations of the victor-nations are at least in part guilty of the same crimes that are being prosecuted in Nuremberg. It has been imputed that the victor-states actually had a "clean sheet". Even were this the case the procedure of the London Charter is inadmissible.

According to generally recognized principles whosoever is personally affected by the punishable act in question shall be unacceptable (inhabilis) as a judge; also whosoever has been called upon to act as legal adviser to the injured party shall also be unacceptable as a judge. The conflict of interests is too close in this case for just proceedings and a just judgment to be expected. As a result of this impermissible amalgamation of roles the Nuremberg proceedings are discredited even if the American court authorities are not affected to the slightest degree by the accusation of bias. The unbiassedness and loyalty of the judges can rather be presupposed. Nevertheless, in principle, the odium remains attached to the Nuremberg proceedings. It cannot be otherwise. For the party demanding atonement and the penal proceedings is not the international group of states as such.

but only a limited group of states - the victor-nations - who maintain that they suffered injury at the hands of the German organisations.

There are two possibilities of removing the odium from judging one's own case:

- a. The constitution of a court by neutral judges, whether by the creation of a tribunal presided over by representatives of the states that remained neutral or by making use of one of the already existing courts, e.g. the international court set up by the UN or the International Court at the Hague.
- b. The formation of a court from equal numbers of representatives of both groups, victors and vanquished. There is all the less reason for objections to the use of German judges since Germany's continued existence under International Law is not contested and no guilt on the part of Germany as such (collective or corporate guilt) was pronounced in the IMT judgment.

These possibilities which, it is true, do not eliminate the objections to an extra-ordinary court and extra-ordinary procedure but could at least have removed the odium of judging one's ^{OWN} case, have been passed over unused by the Allied Powers. The result, however, is that now the tribunals must hold themselves open to the objection which, indeed could not be made

- a. against a normal national court
- b. against a court composed of neutrals
- c. against a court composed of equal numbers of the parties concerned but which, in the present concrete

case, cannot be excluded

if an individual assumes the office of a judge then he
must be prepared to accept the fact that the same objections
will be made to him as would be valid for the individual.

Result:

In proceedings of this type it is permissible to make the
complicity or connivance of the others the subject of debate.
A defense based on the "tu quoque" principle defined in I above
can, therefore, not be excluded.

III.

Current publications show that the London Charter could create
no new international law because it rests on morbid foundations.
It is certain that the achievement of the goal of the association
for the promotion of international law created by the victor-
group by means of the London Charter has proved to be im-
possible.

The purpose of this association was, according to the assertions
of its originators, the administration of world penal justice
by the prosecution under criminal law of the war criminals. This
aim of association cannot be attained in view of the obvious lack
among the powers subscribing to the treaty of judicial and legis-
lative quality. The mere collaboration of one of the states
whose guilt is recognized precludes the possibility of seeing in the
London Charter an instrument for the administration of world
justice. The entire treaty including Law 10 must be considered
as ineffective in international law.

In addition by virtue of the fact that the Control Council
has ceased to exist as an organ of government the foundations for the
judicial power of the Tribunal have been removed. In this
respect I should like to draw attention to my last motion in this
connection.

signed: Schenauer

412
4K

MOTION CASE VI

CERTIFICATE OF TRANSLATION

15 April 1948

I, John POSBERRY, No. 20179, hereby certify
that I am thoroughly conversant with the English
and German languages and that the above is a
true and correct translation of the Motion Case VI.

John POSBERRY,
No. 20179

(END)
- 23 -

Rudolf Ischensauer
Counsel for defendant Gattineau

418
5
Nurnberg 23 January 1948

To
The Secretary General
Military Tribunal VI
N u r n b e r g

FILED 1230
26 Jan 1948
Secretary General
for Military Tribunal VI
Nurnberg

I take the liberty to answer the Prosecution's reply of 16 Jan 1948 as follows:

If the Prosecution refers to the Tribunal's remarks in the session on 12 January 1948 at the outset of its reply to my client's request then I shall at least be permitted to quote the decisive passages from the respective transcript (page 5047 of the German transcript on the morning session of 12 January 1948) :

" I may say further that the Tribunal is definitely of the opinion that it ought not to be asked to rule upon that motion or any motion pertaining to the sufficiency of the evidence of the Prosecution until the matter of the cross-examination of Prosecution witnesses has been concluded. The Tribunal would not want to find itself in the position of ruling upon the sufficiency of the Prosecution's evidence so long as the door had not been closed on the Prosecution case."

According to these statements of the Tribunal it is patent that no objections against the time of the submittal of this motion on behalf of defendant Gattineau are being raised because the Prosecution has now rested its case.

The Prosecution's statement made under 2 that in this preliminary brief not all the evidence can be evaluated which it intends to use against the individual defendants, is correct. I am, however, of the opinion that with regard to the statements I made in this motion the question of the alliance complex is of importance. The alliance complex one of the main points in the Prosecution's case is, as explained in my motion,

no longer mentioned in the Prosecution's preliminary brief. In spite of the character the Prosecution attributes in its reply to this preliminary brief, this circumstance appears to me of considerable significance. One cannot assume that in its preliminary memorandum the Prosecution takes up only matters of secondary importance without setting forth the guiding theories of its case, the more so as the Tribunal explicitly requested that the preliminary memorandum contain particularly the Prosecution's theories. If, however, the most important theory of the Prosecution's case is no longer mentioned in its preliminary memorandum then this can only indicate that at the present stage of the proceedings the Prosecution wants to discard its alliance contention.

Contrary to the Prosecution's opinion ~~opinion~~ some of defendant Gattineau's personal data have not been mentioned in this motion as evidence or as proven contentions in all points, but they serve only to inform the Tribunal on defendant Gattineau's personality i. e. as a basic information on a small scale.

It seems to me superfluous to argue the Prosecution's remark about the elaboration of my Opening Statement because I unequivocally defined my comment in this respect in my answer to another memorandum.

It is superfluous to explain once more the quotations listed under 3) of the reply each of which has been torn from the context, because in this respect the motion speaks for itself.

The quotation listed under 4) refers to a contention of the Prosecution only for which there is no proof at all and for the refutation of which in contrast to the Prosecution, the Defense can easily make proven counter-contention. With regard the revocation of an affidavit by the

defendant, so much written material of the Defense and of the Prosecution has been submitted to the Tribunal that, if this should be the only issue, the relevance of these affidavits can be evaluated.

The Defense motion has been phrased precisely enough to define out of the intricate material of the trial the Prosecution's contentions which might in any way be directed against defendant Gattineau so that the Prosecution is not handicapped in making an objective reply.

To the Prosecution's conclusion which anxiously reads "The diligence of counsel in writing long motions in which a mixture of alleged facts, innuendo, and argument are spread out over many pages has been something of a burden to the Prosecution in attempting to make concise replies" I can only state: If my motions are compared with those of the Prosecution it will be very easy to establish that my motions are phrased objectively and without personal implications. It is my duty as defense counsel to make use of all possibilities the court procedure affords me. I therefore take the liberty to refer once again to the requests I made in my motion of 7 January 1948 and repeat the requests

- 1) to examine the evidence against defendant ^{Gattineau} / so far introduced
- 2] to declare this evidence insufficient
- 3) to acquit defendant Gattineau at the present stage of the proceedings already and to set him free.

(s) Rudolf Aschenauer

Rudolf A s c h e n a u e r
Verteidiger fuer den
Angeklagten Gattineau.

418 ✓
Nuernberg, den 23.1.1948

FILED 26 Jan 1948 with
Secretary General
for Military Tribunals
Defense Center

An den

Herrn Generalsekretaer des
Militaergerichtshofes Nr.VI.,
Nuernberg.

Auf den Schriftsatz der Anklage vom 16.1.1948 darf ich erwidern:

Wenn sich die Anklagebehoerde schon zu Beginn ihrer Antwort auf den Antrag fuer meinen Mandanten auf die Bemerkungen des Gerichtshofes in der Sitzung vom 12. Januar 1948 bezieht, dann sei es mir wenigstens erlaubt, die entscheidenden Stellen aus dem diesbezuglichen Protokoll (Seite 5047 dt., 12.1.1948 Vorm.) zu zitieren:

"...Ich moechte weiterhin sagen, dass der Gerichtshof ganz entschieden der Auffassung ist, dass nicht verlangt werden soll, dass er ueber diesen Antrag oder ueber irgend einen Antrag entscheidet, die die Hinlaenglichkeit des Beweismaterials der Anklagebehoerde betreffen, bis das Kreuzverhoer der Zeugen der Anklagebehoerde abgeschlossen ist. Der Gerichtshof moechte sich nicht in der Lage finden, ueber die Hinlaenglichkeit des Beweismaterials der Anklagebehoerde eine Veruegung zu treffen, solange der Fall der Anklagebehoerde nicht abgeschlossen ist."

Nach diesen Bemerkungen des Hohen Gerichts ist es offenbar, dass der Zeitpunkt der Vorlage dieses Antrages fuer den Angeklagten Gattineau nicht beanstandet wird, nachdem ja nunmehr der Fall der Anklagebehoerde abgeschlossen ist.

Es ist zwar richtig, wie die Anklagebehoerde unter 2. ausfuehrt, dass in diesem vorlaeufigen Schriftsatz nicht alles Beweismaterial verwertet werden kann, das sie gegen die einzelnen Angeklagten auszuwerten beabsichtigt. Dagegen erscheint mir aber in Bezug auf meine Ausfuehrungen in diesem Antrag die Frage des Buendniskomplexes von Bedeutung. Der Buendniskomplex, einer der Hauptangelpunkte des Vorbringens der Anklage, ist, wie ich in meinem Antrag ausfuehre, in dem vorlaeufigen Schriftsatz der Anklagebehoerde nicht mehr erwaeht. Dieser Umstand erscheint mir trotz des von der Anklagebehoerde in ihrer Antwort behaupteten Charakters dieses vorlaeufigen Schriftsatzes von nicht geringer Bedeutung. Denn es ist nicht anzunehmen, dass die Anklagebehoerde ihr vorlaeufiges Memorandum nur mit Nebensaechlichkeiten ausfuellt, ohne auf die leitenden Theorien ihres Vorbringens einzugehen, umsoehr, als der Gerichtshof eindeutig verlangte, dass das vorlaeufige Memorandum insbesondere die Theorien der Anklagebehoerde enthalten soll. Dass aber die

wichtigste Theorie im Vorbringen der Anklage in ihrem vorläufigen Memorandum nicht mehr erwähnt ist, kann nur darauf hindeuten, dass sie bis zum jetzigen Zeitpunkt des Verfahrens von dieser Buendnisbehauptung Abstand nehmen will.

Die Erwähnung einiger persönlicher Daten des Angeklagten Gattineau sind in diesem Antrag entgegen der Meinung der Anklagebehörde nicht als Beweismaterial oder bewiesene Behauptung in allen Punkten vorgetragen worden, sondern dienen nur zur Aufklärung des Gerichts ueber die Persönlichkeit des Angeklagten Gattineau, als eine basic-information in kleinem Rahmen.

Auf die Bemerkung der Anklagebehörde bezüglich der Abrassung meines Opening-statements naecher einzugehen, erscheint mir muessig, nachdem ich diesbezüglich meine Stellungnahme eindeutig in meiner Antwort auf einen anderen Schriftsatz festgelegt habe.

Die im einzelnen aus dem Zusammenhang gerissenen, unter Punkt 3. der Antwort aufgeführten Zitate aus meinem Antrag noch einmal zu beleuchten, ist ueberfluessig, da der Antrag diesbezüglich fuer sich selbst spricht.

Das unter Punkt 4. aufgeführte Zitat bezieht sich lediglich auf eine Behauptung der Anklagebehörde, die durch nichts bewiesen ist und fuer deren Widerlegung die Verteidigung leicht im Gegensatz zur Anklagebehörde bewiesene Gegenbehauptungen entgegenstellen kann. Auch ueber die Zuruecknahme der eidesstattlichen Erklaerung durch den Angeklagten ist bereits genuegend Material in Form von Schriftsaetzen der Verteidigung und der Anklagebehörde vorgelegt worden, sodass bereits jetzt das Gericht, wenn dies der einzige strittige Punkt sein sollte, die Beweiserheblichkeit dieser eidesstattlichen Erklaerungen bemessen kann.

Der Antrag der Verteidigung ist genau genug abgefasst, um aus dem verworrenen Prozesstoff die Behauptungen der Anklagebehörde herauszustellen, die gegen den Angeklagten Gattineau ueberhaupt gemuenat sein koennen, sodass einer sachlichen Erwidern der Anklagebehörde keinerlei Schwierigkeiten im Wege stehen.

Zu der Schlussbemerkung der Anklage, die besorgt sagt, "Der Eifer des Verteidigers lange Antraege abzufassen, in denen eine Mischung angeblicher Tatsachen, Anspielungen und Argumente viele Seiten fuellen, stellt eine gewisse Belastung der Anklagebehörde bei ihrem Versuch dar, genaue Erwidern abzufassen" kann ich nur erklaren: Bei einem Vergleich der Schriftsaetze der Prosecution mit meinen Schriftsaetzen duerfte ohne weiteres festzustellen sein, dass meine Antraege sachlich und ohne jede persoenliche Spitze abgefasst sind. Als Verteidiger habe ich die Verpflichtung, saemtliche Moeglichkeiten, die das prozessuale Verfahren zuloesst, auszuschoepfen. Ich darf mich daher in Gaenze nochmals auf meine im Schriftsatz vom 7.1.1948 gestellten Antraege beziehen und die Antraege wiederholen:

418
①

MILITARY TRIBUNALS

Furnberg, Germany

UNITED STATES OF AMERICA

Against

KRAUCH and Others (Case VI)

ANSWER TO MOTION TO DISMISS THE CASE AS TO THE DEFENDANT GATTINEAU.

TO: The Secretary General, Military Tribunals (Room 261)

1. Answer is made to the 13 page motion of Dr. Aschenauer, counsel for the defendant GATTINEAU, dated and filed 7 January 1948 (translation received 18 January 1948). The motion requests that the Tribunal: (1) "now examine all of the evidence against the defendant Gattineau"; (2) declare the introduced evidence insufficient"; and (3) "acquit defendant Gattineau".

2. Preliminarily the prosecution mentions in passing that the general purposes of the prosecution's memorandum briefs were apparently misconstrued by the petitioner as late as 7 January 1948. If there was doubt about this after the statement of the Tribunal at the time the preliminary briefs were registered and after the admitted limitations of the briefs declared by the prosecution in the briefs themselves, this no longer should be unclear after the Tribunal's comments on the point at the beginning of the session on 12 January 1948. Moreover, the argumentation of the defense throughout the motion is constantly mixed up with assertions of fact which (where relevant) must be established by the defendant in his case in chief before they can be credited by the Tribunal. This is almost entirely true with respect to Section 7 where the application sets forth "some personal data" on the defendant, much of which quite properly could have been confined to his opening statement on behalf of the defendant. (Compare the first half of the opening statement on behalf of the defendant GATTINEAU which amounted to the reading of a motion which the Tribunal had previously ruled that the defense counsel should not read into the record since it was already filed in writing).

3. The contentions of the motion reach many issues raised by the indictment which go beyond the question of the mere incrimination of the defendant GATTINEAU. For example: that "the prosecution in no way take


gains to prove this alleged common plan or conspiracy"; that German direction, control, and utilization of the industrial potential of occupied countries is unrelated to spoliation; that "all parties agreed as to the motives" with respect to the financial transactions affecting Austrian firms after the aggressive occupation of Austria; that the prosecution failed to establish that "all the defendants in general or Gattineau in particular" had at the critical time any knowledge of intentions and plans for aggression"; that the WIFO could not have been an instrument of propaganda of the Third Reich because it was established before the Nazis came to power, etc. In our opinion these are merely some examples of matters where the Tribunal should reserve judgment until it has heard and deliberated upon all the complicated and interwoven evidence and any closing or final briefs submitted by both sides.

4. Under I (A) the motion states that "the defense evidence in support of this contention can easily refute the prosecution's unproven contentions". The prosecution awaits this "defense evidence" at its proper time. The attempt of the defendant GATTINEAU to "revoke" an affidavit is another example of a matter where "the Tribunal can judge its importance as evidence" more properly after the Tribunal has heard the defendant GATTINEAU and such evidence as the defendant can introduce with respect to this and other relevant points raised in the motion.

5. The diligence of counsel in writing long motions in which a mixture of alleged facts, innuendo, and argument are spread out over many pages has been something of a burden to the prosecution in attempting to make concise replies calculated to be of assistance to the Tribunal. If any of our answers to the production^{of} counsel have missed any points which the Tribunal considers relevant and deserving of more argument, the prosecution will welcome further direction from the Tribunal.

6. Wherefore, the prosecution requests that the motion now be denied in its entirety.

By:


D. A. SPECK
Chief, Farben Trial Team

 Nurnberg 14 January 1948
Date

For:

 TELFORD TAYLOR
Brig. Gen. USA
Chief of Counsel

2126

Rudolf Aschenauer
Counsel for defendant Gattineau

418
⑬
Nurnberg 6 January 1948

TO

The Secretary General
Military Tribunal VI
Nurnberg

FILED 27 Jan. 48
Secretary General
for Military Tribunal VI
Nurnberg

Enclosed I submit a motion on behalf of defendant Gattineau.

/s./ Rudolf Aschenauer

Enclosure

418
(14)

MOTION

by Defense Counsel Rudolf Aschenauer

on behalf of

defendant Dr. H. Gattineau

CASE VI

Munberg 7 January 1948

Like all other defendants in Case 6 the indictment charges
defendant Gattineau

- 1) in Count I with the planning, preparation, initiation and waging of wars of aggression and invasions into other countries
- 2) in Count II with spoliation and plunder
- 3) in Count III with enslavement and mass murder and
- 4) in Count V with common planning and conspiracy.

The Prosecution having rested its case and the Prosecutions's
"Preliminary Memorandum and Brief" being submitted, I am now in a position to
examine the charges raised against defendant Gattineau and the evidence introduced
in support of these. After thorough examination of the whole complex which
comes into question I consider it my duty as counsel for defendant Gattineau
to make already at the present stage of the proceedings the

m o t i o n

- 1) the Tribunal may already now examine all the evidence against defendant
Gattineau as contained in the Prosecution's case and on hand of the following
exposition
- 2) it may declare the introduced evidence insufficient to sustain the charges
raised against defendant Gattineau and thus
- 3) acquit defendant Gattineau and release him from his detention before the
trial will be continued.

I take the liberty to substantiate my motion as follows:

I.

Ad Count I of the indictment:

The Prosecution accused Dr. Gattineau of having concluded the
"alliance between Hitler and the Party with IG" by visiting Hitler together
with Dr. Bueteffisch in 1932. Following up this allegation the indictment
indulges in lengthy descriptions of the alliance (page 6 and the following
of the English indictment) whereas the Preliminary Memorandum does not mention
this subject with as much as a single word. This can no doubt be considered
unequivocal proof that the Prosecution, too, does no longer want to sustain
this untenable allegation for which so far not the least evidence has been

proffered. The Prosecution's own case has refuted this allegation so that the Defense need not supply any further evidence. One of the visitors, defendant Buetefisch, was at that time senior clerk (Prokurist) and titular director only; the other representative of IG, Gattinetti, had neither power of attorney nor "Prokura". . . Even a layman in economic and legal matters cannot seriously assume that two thus little qualified employees of IG could bindingly obligate their firm in any way and even less conclude an alliance with Hitler, if, for once, we give consideration to the Prosecution's untenable contentions. What this visit which the Prosecution terms "Meeting of Alliance" really was, is undoubtedly proven by the interrogations of defendant Krauch (Exhibit 30, NI 6767, Document Book III, page 50 of the German and page 35 of the English text), of defendant Buetefisch (Exhibit 29, NI 8637, Document Book III, page 19 of the German and page 18 of the English text which have been introduced by the Prosecution and the interrogation of witness Mulert in the afternoon of 7 October, page 1696 of the German and page 1712 of the English transcript). According to this evidence the visit was made exclusively for the purpose of obtaining information on Hitler's attitude in the synthetic gasoline issue and of requesting prohibition of attacks against this production program by the National Socialist press. This purely informative visit resulted neither in a raise of the protective duty on gasoline nor in an alliance as the Prosecution contends. The Prosecution has likewise omitted to prove its contention that, on the occasion of a courtesy call on Hitler, Bosch concluded any agreements or even discussed the boosting of the hydrogenation of gasoline. Defendant Keppler's affidavit (Exhibit 59, NI 6766, Document Book III, page 127 of the English and page 150 of the German text) which has been introduced as evidence for Bosch' visit to Hitler

mentions in no way the subject of the discussion alleged by the Prosecution. The Prosecution further states under Count I that defendant Gattineau by dint of his position within IG participated in propaganda, intelligence and espionage activities. As to details the Prosecution makes in this respect the following contentions and draws the following conclusions:

- a) Defendant Gattineau was a member of the Advertising Board of German Industry. This gremium is said to have been a propaganda institution. If the Prosecution had studied the law enacting the establishment of this Werberat (Reich Legal Gazette, Part I, 1933, No. 99, page 625) they would certainly have found that the Werberat constituted an advertising agency which in questions of economical advertising cooperated within the frame of an international association with all countries of the world and which never had political propaganda tasks for its purpose. Political propaganda activities were even explicitly prohibited to the Werberat. The defense evidence in support of this can easily refute the Prosecution's unproven contentions.
- b) Defendant Gattineau was a member of the so-called Wirtschaftsfuehrerkreis or Sachverstaendigenbeirat (F-Circle). The Prosecution asserts that this institution has been created for the purpose of political propaganda and has affected National-Socialist propaganda abroad. Defendant Gattineau has revoked the affidavit introduced in this connection as evidence so that the Tribunal can judge its importance as evidence (Exhibit 26, NI 4833, Doc. Book III, page 12 of the German and page 4 of the English text, Exhibit 27, NI 5170, Doc. Book III, page 12 of the German and page 4 of the English text). From Ilgner's affidavit (Exhibit 772, NI 6702, Doc. Book XVII, page 42 and the following of the German and page 23 and the following of

the English text) results that the purpose of this organization was just the opposite of the Prosecution's unproven contention that it was "to advise the Propaganda Ministry which at that time used very crude and shocking methods causing great damage to the German export interests" namely to boost German exports, to obviate political propaganda abroad and restore the German reputation abroad. The F-Circle came out of existence soon after 30 June 1934 (viz. above affidavit of Ilgner and interrogation of Prosecution witness Krueger in the morning of 29 October, page 2987 of the German and 2367 of the English transcript) as an "attempt to influence Nazi politics by economical realities and economical reasoning" (Krueger, in the morning of 29 October, page 2986 of the German and 2967 of the English transcript).

- c) Defendant Gattineau was for some time head of IG's Political Economy Department, the WIFO. On page 66 of the memorandum the Prosecution states: "Gattineau was made head of Wifo because of his good relations to the Nazi Party"; in support of this contention they quote an affidavit of Gattineau of which at least the re-translation into German is incorrect (Exhibit 26, NI 4833, Doc. Book III, page 12 of the German and page 4 of the English text). If I now direct the Prosecution's attention to the fact that Wifo was established as early as in September 1932, i. e. prior to the Hitler Cabinet taking office and that Gattineau was made its head immediately, then they will understand that "the necessary relations to government and Party agencies" cannot be interpreted in the above meaning, the more so if one considers that at that time Gattineau was an active member of the "Konservative Volkspartei". It was not, as the Prosecution contends, the seizure of power which caused the establishment of Wifo because on 30 January 1933 Wifo had existed for 5 months and was headed by Dr. Gattineau already (viz. interrogation of Krueger in the morning of 29 October, page 3011 of the German and page 2991 and the following

of the English transcript). The Prosecution contends that Wipo participated in the elaboration of mobilization plans and engaged in espionage activities and was furthermore IO's propaganda institution. From the Prosecution's own case results, however, that Wipo was an auxiliary department for the Sales Combines facilitating the intercourse with the authorities (interrogation of Krueger in the morning of 29 October, page 3010 and the following of the German and 2991 of the English transcript) (Frank-Fahle in the morning of 13 October, page 1941 and the following of the German and 1954 and the following of the English transcript).

- aa) From the testimony of many Prosecution witnesses (Krueger in the morning of 29 October, page 3010 of the German and page 2991 and the following of the English transcript; Frank-Fahle in the afternoon of 13 October, page 1976 of the German and page 1988 of the English transcript; Kuepper in the morning of 13 October, page 1923 of the German and page 1936 of the English transcript) results that the settlement of the M-question bore upon the exemption of the personnel from military service owing to essential positions and not upon mobilizations and constituted on the contrary the insurance of the commercial personnel against drafting on the basis of obligatory military service and in the event of mobilization. The Prosecution's contention that "Gattineau together with Noack attempted to establish a special system for the mobilization on the economic field" (in the morning of 4 September, page 455 of the German and page 476 of the English transcript) has thus also found its explanation and has been refuted by the Prosecution's own witnesses.
- bb) It stands to reason that, within the frame of the intervention in the intercourse with the authorities, inquiries by the Sales Combines to

authorities were forwarded through the official channels by way of Wipo. The exhibits 800 NI 6488, Doc. Book XXXIV, Page 4 of the German and page 2 of the English text, on Brazil, and 788, NI 4613, Doc. Book XXXIV, page 186 of the German and page 102 of the English text on Argentina introduced by the Prosecution can in no way be interpreted as espionage activity for the Wehrmacht or political propaganda abroad and even less as a matter with which Wipo had to occupy itself actively. Witness Noack's vague assertions in mentioning the occasional visits of Major Bloch of the OKW-Counter-Intelligence with whom Gattineau was personally befriended and the forwarding of reports, the contents of which he does not know, to Bloch are not based upon facts, but upon surmises only (afternoon session of 27 October, page 2872 and the following of the German transcript). Exhibit 420 NI 5746, Doc. Book 24, page 120 of the German text, Doc. Book II, page 6 of the English text which the memorandum quotes on page 67 proves only that Keppler wanted a report from Neubauer. It is not mentioned whom Keppler asked for the report, whether Gattineau or some other member of IG and whether Keppler at any time received such a report at all. As appears from the contents of the document there can be no doubt that the whole affair had nothing to do with espionage. Such a matter might of course have been submitted by way of Wipo because Wipo was competent for the intercourse with the authorities, but this too in no way proves military espionage, National Socialist propaganda activity or mobilization measures within Wipo. On the contrary, as results from documents Exhibit 927, NI 7626, Doc. Book 49, page 143 of the German and page 103 of the English text, and Exhibit 928, NI 3804 Doc. Book 49, page 146 of the German and page 104 of the English text "in none of the cases in which we (IG) were approached the wishes (concerning demands of the OKW) could be complied

with⁸ which quotation refers to the time prior to 1940.

The Prosecution do not only try to incriminate defendant Dr. Gattineau in these proceedings with the alleged responsibility for his activity as head of Wipo from 1932 until 1938, but, by mistaking his name, they also try to charge him, who was in contact with Vowi only inasfar as the latter was an adjacent department, with having offered the services of the Vienna branch of Vowi to General Gautier of the Military Economy Office (page 65 of the memorandum). Exhibit 858, NI 7787, Doc. Book 47, page 75 of the German and 39 of the English text) which is quoted in support thereof as clearly shown by the document, can refer to a corresponding offer to General Gautier by the head of Vowi Herr Reithinger only. For the purpose of clear demarcation of the spheres of activity it must be pointed out that Vermittlungstelle W was competent for liaison with the military commands, Herr Waibel was in charge of liaison with the organization of the Party abroad, whereas Wipo did liaison work in the intercourse with the economic authorities. Refutation of the contentions made on page 67 of the memorandum is thus superfluous.

Even though it has repeatedly been tried to prove in a strange manner that the defendants knew of the beginning of the aggressive war, I can give here a particularly drastic example of how it is being tried to substantiate the proof of knowledge of the imminent occupation of Czechoslovakia (page 60 of the Memorandum): At a meeting of the Commercial Committee which Dr. Gattineau attended as a guest and not as a member all attendants were allegedly informed on a conference which the competent officials of NW 7 held with Herr Seeborn, an IG representative in Czechoslovakia and at which Herr Seeborn gave them valuable information on the present business situation in Czechoslovakia. Out of this mere business discussion with a representative of the firm abroad a sensational discussion of political staging has been made, but

one has overlooked that for such weighty meeting the presence of members of the Vorstand or of a personality competent for the Sales Combines would have been required. The Prosecution witness Frank-Fahle testified in detail as to the true subject of this discussion (in the morning of 14 October, page 2016 and the following of the German and pages 2033-34 of the English transcript) so that further refutation of this complex is not necessary.

The Prosecution in its whole case did not prove that either all the defendants in general or Dr. Gattineau in particular had at the critical time any knowledge of intentions and plans for aggression.

On the contrary, many Prosecution witnesses confirmed explicitly that, as far as they know, no one within IG knew beforehand of an aggressive war (Krueger, Frank-Fahle, Dickmann, Gorr, Kuepper, Struss etc.) Even the Prosecution witness Schmidt, Hitler's interpreter, stated explicitly when questioned by one of the Defense Counsel that these defendants certainly had not known more than Schacht and Doenitz who had not been convicted of knowledge of aggressive war and therefore had been acquitted in this Count (Schmidt's interrogation in the afternoon of 2 October, page 1574 of the German and page 1594 of the English transcript).

II.

Ad Count II of the indictment:

Neither the indictment nor the Prosecution's memorandums mention defendant Gattineau's name in any way which would make him responsible under Count II of the indictment. Only in the Prosecution's case Gattineau's name is mentioned a few times: once in connection with discussion in Austria which Gattineau had with government agencies for the purpose of removal of the commissioners (Exhibit 1070, NI 2798, Doc. Book 52 page 92 and the following of the German and page 77 and the following of the English text). The Prosecution witness Krueger defined the

418
23

character of these discussions (in the morning of 29 October, page 2994 of the English and page 3014 of the German transcript). The Prosecution does not contend that Gattineau played a leading role in the continuation of the negotiations with regard to Skoda-Wetzlar. The negotiations which were continued date back to a time long before 1933 and were initiated by the administration of Skoda-Wetzlar (interrogation of Krueger in the morning of 29 October, page 3001 and the following of the German and page 2986 of the English transcript). If defendant Gattineau's name is mentioned in connection with the Carbidwerk Deutsch Metrel transaction it can be fully appreciated only when compared with the testimony of Prosecution witness Meyer-Wegelin (in the morning of 30 October, page 3101 of the German and page 3081 of the English transcript) who confirmed that the proposals originated from the administration of the sales organization, DAG Pressburg, and that all parties involved agreed as to the motives. No pressure whatever was exercised and no proof for the support of this thesis was furnished so that this affair practically constituted an internal concern re-organization. Here, too, Gattineau did not conduct the negotiations, but he only attended them and signed within their course a formal memorandum only. To the Seeborn discussion (page 96 of the memorandum) I referred already under Count I of the indictment. As far as the Austrian complex is concerned the Prosecution would have profited from a closer study of defendant Gattineau's life because they would have learned that this man whom they consider so important for the annexation of Austria was in the decisive months prior to and after the Anschluss not in Europe, but on a study tour in South-Africa which kept him from Europe from the end of December 1937 until mid-April 1938.

418
(24)

In his Opening Statement General Taylor has also pointed out (in the afternoon of 27 August, page 181 of the German and page 190 of the English transcript) that Gattineau as director of DAG Pressburg participated in the spoliation activity. No substantiation for this contention has, however, been supplied; on the contrary, Gattineau's activity made the Pressburg plant the backbone for supplying Slovakia with chemical products for civilian consumption and provided exemplary social facilities which had in no way existed in 1939.

III.

Ad Count III of the indictment:

In his Opening Statement in Case 6 General Taylor states (in the afternoon of 27 August, page 181 of the German and pages 189/190 of the English transcript): "The four defendants who are not members of the Vorstand are being indicted because they played a particularly decisive role in the crimes charged in the indictment. Then, coming to defendant Gattineau who also was not a member of the Vorstand, he goes on: "After 1938 defendant Gattineau as director of one of the biggest explosives plants of IG in the occupied territories participated in procuring and misusing forced labor and in acts of spoliation". Here, General Taylor refers to defendant Dr. Gattineau's activity as director of DAG Pressburg from 1939 until 1945. Up to date we have been waiting in vain for a proof for this contention. Without claiming to be a prophet I dare assert that this proof will not have been supplied even at the end of the trial. In the production process of the Pressburg plant there were neither foreign workers, not forced laborers, not concentration camp inmates, nor prisoners of war and there have also been no cases of spoliation.

IV.

Ad Count V of the indictment:

The judgment passed by the IMT mentions in volume I on page 253

the involvement of defendants in a conspiracy or a common plan; it reads: "If they knew his aims and cooperated with him, they became participants in the plan which he created." The Prosecution did in no way take pains to prove this alleged common plan or conspiracy. Even if we assume that such a plan existed how should defendant Gattineau have been initiated in such a common plan or conspiracy. I have already pointed out that Dr. Gattineau never was a member of the Vorstand, of the KA or AA and that until 1938 he had not been a member of any other IG committee. After 1938 he had no longer any functions within IG itself. He was left his title as an IG director, but was transferred to the management of DAG Pressburg and later to the Vorstand of Donaueschingen. In these functions he was later on called into IG's South-East Committee. Apart from these, he did not exercise any functions in any other of Germany's corporations.

V.

In concluding I deem it expedient for the total appreciation of defendant Gattineau to give some personal data.

Defendant Gattineau who in 1928 on the basis of his excellent examinations became scientific assistant and later on secretary to Geheimrat Duisberg was appointed head of the Press Department as early as 1931 and head of IG's Wipo as early as 1932 not because of political relations or political activity, but because of his abilities as a specialist. Until 1933 Dr. Gattineau was a member of the Konservative Volkspartei and as such he participated in the political drive against National Socialism by his running for the Reichstag. He promoted the students' opposition against National Socialism and actively supported the election of Hindenburg. Through his work as head of the Press Department Dr. Gattineau came into contact with members of the Roehm Staff. At the beginning of 1933 a wild collection activity of various SA units took

418
(26)

place in the IG plants. To quash these activities Dr. Gattineau made an arrangement with the financial administrator of the SA by which IG replaced these individual collections by a contribution of 100 000 Reichsmarks. Roehm who was at that time Chief of Staff of the SA was apparently anxious to have contact with IG and therefore in the middle of 1933 bestowed upon Dr. Gattineau an honorary rank in the SA (Sturm-bannfuhrer) without Dr. Gattineau being entitled to any function or office in the SA.

Dr. Gattineau accepted this honorary rank in the SA because he considered the Roehm tendency apt to brake the radical home and foreign policies of National Socialism. In the wake of the crushing of these anti-radical tendencies of the leaders of the SA at that time carried out by the radical element of the Party in the so-called Roehm purge on 30 June 1934, Dr. Gattineau was arrested by the Gestapo. After his incarceration in the Death Cell of the Columbia Prison Dr. Gattineau was saved by Hindenburg's order to stop the executions. After his release from prison defendant Gattineau left the SA and no longer exercised any political activity at all, but took up economic tasks exclusively. On 6 June 1945 after Germany's collapse the American Military Government in Muehlendorf gave Dr. Gattineau permission to take up production in the Aschau plant in Aschau/Obb. and revamp it for peace-time production. In August 1945 a 3-days investigation by a committee composed of officers of the American Military Government for Bavaria took place in Aschau and comprised the whole IG complex, Gattineau's activity in Pressburg and Aschau and other personal affairs of defendant Gattineau. As the result of this investigation defendant Gattineau was appointed the plant's custodian for the American Military Government for Bavaria. After a Control Officer had taken over the plant Dr. Gattineau was further confirmed as director. Only after Ordinance No. 8 of the Military Government was issued he was arrested because of his honorary rank in the

SA and kept in automatical detention (11 October 1945). On 6 August 1946 defendant Gattineau was released by order of the Third Army and on 11 October 1946 he was arrested again by order of OOWO.

Considering the circumstances explained and considering the lack of evidence in support of the Prosecution's contentions I deem it my duty to make the request outlined at the outset compliance with which is legally and formally not contrary to the rules of procedure. I take the liberty to point out that at the first great trial of former personnel of the concentration camp Dachau before the Military Court in Dachau there was already a precedent inasfar as upon a Defense motion the proceedings against one of the defendants were severed from the trial and the defendant was acquitted before the end of the trial.

(s) Rudolf Aschenauer

Rudolf A s c h e n a u e r,
Verteidiger des Angeklagten
Gattineau

Muenberg, den 6.1.1948

418 ✓
(28)

FILED 7 Jan. 48
Secretary General
for Military Tribunal
Defense Counsel

An den

Herrn Generalsekretaer des
Militaergerichtshofes VI,
Muenberg.

In der Anlage ueberreiche ich einen Antrag fuer den Angeklagten
Gattineau.

Anlage.

Rudolf Aschauer

A N T R A G

des Verteidigers Rudolf A s c h e n a u e r

fuer den

angeklagten Dr. H. Gattineau

F A L L VI

Muernberg, den 7.1.1948

Wie sämtliche Angeklagten des Falles VI ist der Angeklagte Gattineau entsprechend der Anklageschrift angeklagt

- 1.) nach Anklagepunkt I (Planung, Vorbereitung, Beginn und Fuehrung von Angriffskriegen und Einfaellen in andere Laender)
- 2.) nach Anklagepunkt II (Pluenderung und Raub)
- 3.) nach Anklagepunkt III (Versklavung und Massenmord) und
- 4.) nach Anklagepunkt V (Gemeinsamer Plan und Verschwörung).

Nach Abschluss des Vorbringens der Anklagebehoerde und Ueberreichung des "Vorlaeufigen Memorandums und Schriftsatzes" der Anklagebehoerde bin ich in der Lage, die gegen den Angeklagten Gattineau erhobenen Beschuldigungen und die dafuer angebotenen Beweismittel zu ueberpruefen. Nach eingehender Pruefung des gesamten in Frage kommenden Komplexes halte ich es als Verteidiger des Angeklagten Gattineau fuer meine Pflicht, bereits im jetzigen Zeitpunkt des Verfahrens den folgenden

A n t r a g

zu stellen:

1. Das Hohe Gericht moege bereits jetzt das gesamte, gegen den Angeklagten Gattineau vorliegende Beweismaterial anhand des Vorbringens der Anklage und der nachfolgenden Ausfuehrungen ueberpruefen,
2. es moege das vorliegende Beweismaterial fuer unguemigend im Sinne der gegen den Angeklagten Gattineau erhobenen Beschuldigungen erklaren und somit
3. den Angeklagten Gattineau von Schuld und Strafe freisprechen und ihn noch vor der Weiterfuehrung des Prozesses aus der Haft entlassen.

Zur Begruendung meines Antrages darf ich folgendes anfuehren:

I.

Zu Anklagepunkt I:

Die Anklagebehoerde hat Dr. Gattineau vorgeworfen, Dr. Bueteffisch und er haetten durch einen Besuch bei Hitler im Jahre 1932 das "Buendnis Hitlers und der Partei mit der IG" geschlossen. Die Anklageschrift ergoent sich dem-

entsprechend in langen Ausführungen ueber die Buendnisbehauptung (S.6 ff. engl. Text Anklageschrift), das vorlaeufige Memorandum erwahnt nicht ein Wort mehr von diesem Gegenstand. Dieser Umstand darf ohne jeden Zweifel als untrugliches Zeichen dafuer angesehen werden, dass auch die Anklagebehoerde selbst nicht mehr ernstlich an dieser voellig unhaltbaren Behauptung, die bis jetzt ohne Beweise geblieben ist, festhalten will. Bereits das eigene Vorbringen der Anklagebehoerde hat diese Behauptung widerlegt, ohne dass von Seiten der Verteidigung noch weiteres Beweismaterial vorgebracht zu werden braucht. Der eine Teilnehmer an diesem Besuch, der Angeklagte Buetefisch, war damals Prokurist mit dem Titel Direktor, der andere Teilnehmer von Seiten der IG, Cattineau, hatte nicht einmal Handlungsvollmacht, geschweige denn Prokura fuer die IG. Selbst jemand, der wenig von wirtschaftlichen und juristischen Dingen versteht, wird nicht im Ernst daran glauben koennen, dass zwei in dieser Form wenig qualifizierte Angestellte der IG ihre Firma in irgendeiner Form bindend verpflichten oder gar ein Buendnis mit Hitler schliessen konnten, wenn wir einmal all die unhaltbaren Behauptungen der Anklagebehoerde unterstellen wollen. Was aber dieser von der Anklagebehoerde als " Buendniszusammenkunft " dargestellte Besuch in Wirklichkeit gewesen ist, beweist nichts besser, als die von der Anklagebehoerde vorgelegten Vernehmungen des Angeklagten Krauch, (Bew.Stck. 30, MI 6767, Dok.B. III, S.50 dt.,35 engl.) des Angeklagten Buetefisch, (Bew.Stck.29, MI 8637, Dok.B. III, S.19 dt.,18 engl.) und die Einvernahme des Zeugen Mulert (7.okt.Nm. Prot.S.1696, 1712 tr.) Nach diesem Beweismaterial handelte es sich bei diesem Besuch lediglich um die Einholung einer Information ueber die Stellungnahme Hitlers zur Frage des synthetischen Benzins und um das Ersuchen, der nationalsozialistischen Presse weitere Angriffe gegen dieses Produktionsprogramm zu untersagen. Weder die Zusage der Erhoehung des Schutzzolles auf Benzin noch gar ein Buendnis, wie es die Anklagebehoerde behauptet, haben sich aus diesem rein informativischen Besuch ergeben.

Ebenso ist die Anklagebehoerde den Beweis fuer die Behauptung schuldig geblieben, dass Bosch mit Hitler ueber die Foerderung der Benzinhydrierung anlaesslich eines Hoeflichkeitsbesuches bei Hitler irgendwelche Vereinba-

runge getroffen oder auch nur darüber gesprochen habe. Das Affidavit des Anklagezeugen Keppler (Bew.Stck. 59, NI 6766, Dok.B.III, S.127 engl., S.150 dt.) das als Beweis fuer den Besuch von Bosch bei Hitler vorgelegt ist, erwahnt mit keinem Wort den von der Anklage behaupteten Diskussionsgegenstand.

Die Anklagebehoerde bringt weiterhin im Rahmen des Anklagepunktes I vor, der Angeklagte Dr.Gattineau habe auf Grund seiner Stellung in der IG an Propaganda-, Nachrichten- und Spionagetaetigkeit der IG teilgenommen. Im einzelnen stellt sie hierzu folgende Behauptungen und Schluesse daraus auf:

- a) der Angeklagten Gattineau war Mitglied des Werberates der deutschen Wirtschaft. Dieses Gremium sei eine Propagandaeinrichtung gewesen. Unter Verwendung des Gesetzes ueber die Errichtung dieses Werberates (RGBl. Teil I 1933, Nr.99, S.625) haette die Anklagebehoerde ohne weiteres feststellen koennen, dass es sich beim Werberat um eine Reklameinstitution handelte, die in einem internationalen Verband mit saemtlichen Laendern der Welt in Fragen der wirtschaftlichen Reklame zusammenarbeitete und die nie irgendwelche politische Propagandaaufgaben zu erfuehlen hatte. Politische Propagandataetigkeit war dem Werberat sogar ausdruoecklich untersagt. Das hierzu vorhandene Beweismaterial der Verteidigung wird die obengenannten, durch nichts bewiesenen Behauptungen der Anklagebehoerde, leicht widerlegen.
- b) Der Angeklagte Gattineau war Mitglied des sog. Wirtschaftsfuehrerkreises oder Sachverstaendigenbeirates (F-Kreis.) Diese Einrichtung sei zum Zwecke der politischen Propaganda entstanden und habe sich auf die NS-Auslandspropaganda ausgewirkt. Dies hierzu als Beweismaterial angebotene Affidavit Gattineau ist vom Angeklagten widerrufen worden, sodass das Gericht seinen Beweiswert ermessen kann. (Bew.Stck. 26, NI 4833, Dok. B.III, S.12 dt., S.4 engl., Bew.Stck.27, NI 5170, Dok.B.III, S.12 dt., S.4 engl.) Aus der eidesstattl. Erklaerung Igners (Bew.Stck. 772, NI 6702, Dok.B.XVII, S.42 ff.dt., 23 ff.engl.) ergibt sich, dass der Zweck dieser Organisation gerade im Gegensatz zu der durch nicht bewiesenen Behauptung der Anklage, es war, " das Propagandaministerium, das zu dieser Zeit sehr rohe und schockierende Methoden benutzte, die den deutschen Export-Interessen grosse Schaden taten, zu beraten ", also in Sinne der

Foerderung des deutschen Exports zu wirken, der politischen Propaganda im Ausland entgegenzuarbeiten und das deutsche Ansehen im Ausland wiederherzustellen. Der K-Kreis schloef bereits ^{kurz/} nach dem 30. Juni 1934 wieder ein, (siehe obenangef. Aff. Iigner und Vernehmung des Anklagezeugen Krueger v. 29.10.Vm, S. 2987 Prot. S. 2367 tr.) als ein "Versuch, Einwirkungen zu nehmen auf die Wapipolitik mit wirtschaftlichen Realtaeten und wirtschaftlicher Vernunft" (Krueger 29.10.Vm. S. 2986 Prot. S. 2967 tr.)

- c) Der Angeklagte Gattineau war eine bestimmte Zeit lang Leiter der Wirtschaftspolitischen Abteilung, kurz Wipo, der IG. Auf Seite 66 des Memorandums schreibt die Anklagebehoerde: "Wegen seiner guten Beziehungen zur Wapipartei wurde Gattineau zum Leiter der Wipo gemacht"; sie fuehrt zur Unterstuetzung dieser Behauptung eine wenigstens im deutschen Text entstellte Rueckuebersetzung des Affidavits Gattineaus an, (Bew. Stck. 26, HI 4833, Dok. B. III, S. 12 dt., S. 4 engl.) Wenn ich nun die Anklagebehoerde darauf hinweise, dass die Wipo bereits im September 1932 - also vor der Regierung Hitler - gegruendet und Gattineau sofort zu ihrem Leiter bestellt wurde, so wird sie verstehen, dass "die noetigen Verbindungen zu Regierungs- und Parteistellen" nicht in dem obengenannten Sinne verstanden werden koennen, wenn man dazu noch bedenkt, dass zu diesem Zeitpunkt der Angeklagte Gattineau aktives Mitglied der Konservativen Volkspartei gewesen ist. Nicht die Aechtergreifung, wie die Anklagebehoerde behauptet, hat den Anlass zur Gruendung der Wipo gegeben, denn am 30. Januar 1933 hat die Wipo immerhin schon 5 Monate bestanden, u. zw. unter der Leitung von Dr. Gattineau (siehe Vernehmung Krueger 29.10.Vm, S. 3011 Prot. S. 2991 ff tr.) Die Anklagebehoerde behauptet nun, die Wipo habe sich an Mobilisationsplaenen und Spionagetaetigkeit beteiligt, sie sei weiterhin eine Propagandainstitut der IG gewesen. Aus dem eigenen Vorbringen der Anklage geht demgegenueber hervor, dass die Wipo eine Hilfsabteilung fuer die Verkaufsabteilungen gewesen ist zur Erleichterung des Behoerdenverkehrs (Vernehmung Krueger 29.10.Vm, S. 3010 ff Prot. S. 2991 tr.) (Frank-Fahle 13.10.Vm. S. 1941 ff. Prot. S. 1954 ff tr.)

- aa) Dass die Regelung der M-Frage sich auf die Bearbeitung der UK-Stellun-

gen (Unabkoemmlichkeitsstellungen) des Personals bezog und es sich dabei nicht um Mobilisierungen, sondern im Gegenteil um eine Sicherung des Kaufmaennischen Personals vor Einziehungen im Rahmen der Wehrpflicht und bei einem Mobilmachungsfall handelte, geht aus den Aussagen vieler Anklagezeugen hervor (Kruenger 29.10.Vm. S.3010 Prot., S. 2991 ff tr., Frank-Fahle 13.10.Nm.S.1976 Prot.S.1988 tr., Kuepper 13.10.Vm.S.1923 Prot.S.1936 tr.) Auch die Behauptung der Anklagebehoerde: " Gattineau versuchte zusammen mit Noack ein besonderes System fuer die Mobilisierung auf wirtschaftlichem Gebiet aufzumachen " (4.9.Vm. S.455 Prot.,S.476 Tr.) hat hierdurch ihre Erklaerung gefunden und ist durch die eigenen Zeugen der Anklage widerlegt.

- bb) Wenn im Rahmen der Vermittlung des Behoerdenverkehrs Anfragen der Verkaufsgemeinschaften an Behoerden in normalen Dienstweg ueber die Wipo liefen, so ist das ~~selbstverstaendlich~~ selbstverstaendlich. Weder die von der Anklagebehoerde vorgelegten Beweisstücke 800 NI 6488, Dok.B.XXXIV, S. 4 dt.,S.2 engl.,bezuglich Brasilien und 788, NI 4613, Dok.B.XXXIV, S.186 dt.,S.102 engl.,bezuglich Argentinien koennen irgendwie als Spionagetatigkeit fuer die deutsche Wehrmacht oder als politische Auslandspropaganda, geschweige denn als eine Angelegenheit angesehen werden, mit der sich die Wipo aktiv zu befassen hatte. Die vagen Behauptungen des Zeugen Noack beziehen sich nicht auf Tatsachen, sondern nur auf Vermutungen, wenn er von gelegentlichen Besuchen des mit dem Angeklagten Gattineau persoenlich befreundeten Major Eloch vom OKW-Abwehr spricht und von Weitergabe von Berichten an diesen, deren Inhalt er nicht angeben kann. (27.10.Nm. S.2872 ff Prot.) Das Beweisstueck 420, NI 5746 Dok.B.24, S.120 dt.,Dok.B.IX, S.6 engl., das auf Seite 67 des Memorandums zitiert wird, gibt lediglich einen Beweis dafuer ab, dass Keppler einen Bericht von Neubacher gewünscht habe. Es ist nicht gesagt, an wen sich Keppler wegen dieses Berichtes gewandt hat, an Gattineau oder einen anderen Angehoerigen der IG, und ob ueberhaupt je Keppler einen solchen Bericht erhalten hat. Dass die ganze Angelegenheit ueberhaupt nichts mit Spionage zu tun haben kann, steht nach dem Inhalt des Dokumentes ausser Zweifel. Sicherlich kann eine solche Frage zustandigkeithalber durch die Wipo als Behoerdenvermittlungsstelle gelaufen

sein, aber ein Beweis fuer militaerische Spionage oder NS-Propagandataetigkeit oder gar Mobilisierungsmassnahmen innerhalb der Wipo, ^{auch hier/} ist/in keiner Weise gefuehrt. Ganz im Gegenteil. Wie aus den Dokumenten Bew.Stck. 927, NI 7626, Dok.B.49, S.143 dt., S.103 engl. und Bew.Stck. 928, NI 3804, Dok.B.49, S.146 dt., S.104 engl. hervorgeht, " konnte " - und dieses Zitat bezieht sich auf die Zeit bis zum Jahre 1940 - " in keinem der Faelle den an uns (IG) herangetragenen Wuenschen (bezuglich Anforderungen des OKW) ~~entsprochen~~ entsprochen werden."

Nicht genug, dass man den Angeklagten Dr. Gattineau mit einer vermeintlichen Verantwortung in diesem Prozess fuer seine Taetigkeit von 1932 bis 1938 als Leiter der Wipo zu belasten versucht, weiterhin versucht man ihm durch eine Namensverwechslung in die Schuhe zu schieben, dass er, der mit der VOWI nur soweit zu tun hatte, als dass diese Abteilung eine benachbarte Stelle war, dem General Gautier vom Wehrwirtschaftsamt die Dienstaeeder Wiener Filiale der VOWI angeboten habe (S.65 des Memorandums). Das dort angefuehrte Bew.Stck. 858, NI 7787, Dok.B. 47, S.75 dt., S.39 engl. kann sich hochstens auf ein entsprechendes Angebot des Leiters der VOWI, Herrn Reithinger, an Gautier beziehen, wie sich aus dem Dokument klar ergibt. Zur genauen Unterscheidung der Taetigkeitsgebiete sei darauf hingewiesen, dass fuer die Verbindung zu militaerischen Stellen die Vermittlungsstelle W, fuer die Verbindung mit der Auslandsorganisation Herr Waibel zustaeendig war, wogegen die Wipo sich mit der Verbindung zu wirtschaftlichen Behoerdenstellen befasste. Insoweit eruebrigt sich ein Eingehen auf die auf S.67 des Memorandums aufgestellten Behauptungen.

Wenn man schon immer in eigenartiger Weise versucht hat, den Angeklagten Kenntnis ~~zum~~ Beginn des Angriffskrieges nachzuweisen, so ist hierfuer ein besonders drastisches Beispiel, wie man das Wissen um die bevorstehende Besetzung der Tschechoslowakei zu begruenden versucht (S.60 Memorandum): Bei einer Sitzung des KA, bei der Dr. Gattineau als Gast, nicht als Mitglied teilnahm, sollen saemtliche Teilnehmer von einer Besprechung erfahren haben, die Sachbearbeiter von NW 7 mit einem Vertreter der IG in der Tschechoslowakei, Herrn Seeborn, gehabt haben und bei der Seeborn orientierend ueber die augenblickliche geschaeftliche Lage in der Tschechoslowakei gesprochen

hat. Aus dieser rein geschäftlichen Besprechung mit einem Auslandsvertreter der Firma hat man eine politische Regiebesprechung ersten Ranges gemacht, leider fehlen zur Vollgültigkeit einer solch hochwichtigen Sitzung teilnehmende Vorstandsmitglieder oder eine fuer diese Verkaufskomplexe verantwortliche Persönlichkeit. Frank-Fahle, der Anklagezeuge, hat im Zeugenstand eingehend den wahren Inhalt dieser Besprechung berichtet (14.10.Vm., S.2016 ff. Prot., S.2033-34 tr.), sodass sich ein weiteres Eingehen auf diesen Komplex ersparen lässt.

Im ganzen Beweisvortrag der Anklage wurde weder fuer saemtliche Angeklagte im allgemeinen noch fuer Dr. Gattineau im besonderen ein Beweis dafuer gefuehrt, dass sie in der in Rede stehenden Zeit irgendeine Kenntnis von Angriffsabsichten und -Plaenen hatten. Im Gegenteil haben zahlreiche Anklagezeugen ausdruuecklich bestaetigt, dass nach ihrer Kenntnis niemand in der IG vorher von einem Angriffskrieg gewusst hat (Krueger, Frank-Fahle, Dickmann, Gorr, Kuopper, Struss u.a.). Ja selbst der Anklagezeuge Schmidt, der Dolmetscher Hitlers, hat auf Befragung eines der Verteidigungsanwaelte ausdruuecklich erkluert, dass diese Angeklagten bestimmt nicht mehr gewusst haben als Schacht und Doenitz, denen kein Wissen um den Angriffskrieg nachgewiesen und die deswegen in diesem Punkt freigesprochen wurde (Vernehmung Schmidt 2.10.Vm., S.1574 Prot., S.1594 tr.)

II.

Zu Anklagepunkt II:

Weder die Anklageschrift noch das Memorandum der Anklagebehoerde erwahnen den Namen des Angeklagten Gattineau in irgendeiner Beziehung, die auf eine Verantwortlichkeit im Sinne des Anklagepunktes II schliessen koennte. Lediglich waehrend des Beweisvortrages der Anklage faellt einige wenige Male der Name Gattineau einmal im Zusammenhang mit einer Besprechung in Oesterreich, die Gattineau mit Regierungstellen wegen der Beseitigung der Kommissare hatte (Bew.Stck. 1070, NI 2798, Dok.B.52, S.92 ff.dt., S.77 ff engl.) Der Anklagezeuge Krueger hat den Charakter dieser Besprechungen klargelegt. (29.10.Vm., S.2994 tr, S.3014 Prot.). Bei der Fortfuehrung der Verhandlungen bezueglich Skoda-Wetzler wird von der Anklagebehoerde nicht behauptet, dass Gattineau irgendwie eine fuehrende Rolle gespielt habe. Im uebrigen handelt es sich hierbei um die Fortfuehrung von Verhandlungen, die bereits auf Anregung der Verwaltung von Skoda-Wetzler/ ~~Wetzler~~ ^{schon lange vor 1933/} liefen (Krueger

Vernehm. v. 29.10. Vm, S. 3001 ff. Prot., S. 2986 tr.) Die Nennung des Angeklagten Gattineau im Zuge der Transaktionen Carbidwerk Deutsch-Matrei gewinnt ihre richtige Bedeutung nur im Zusammenhang mit der Aussage des Anklagezeugen Meyer-Wegelin (30.10. Vm, S. 3101 Prot. S. 3081 tr.), der bestaetigt, dass die Vorschlaege von der Verwaltung des Verkauferes, DAG Pressburg, selbst stammen und dass sich alle Beteiligten ueber die Motive einig waren. Irgendein Zwang wurde dabei nicht ausgeuebt, ein Beweis zur Stuetzung dieser These wurde auch nicht erbracht, sodass es sich bei dieser Angelegenheit praktisch um eine interne Konzernumgliederung gehandelt hat. Gattineau hat auch hier die Verhandlungen nicht gefuehrt, sondern er war nur dabei anwesend und hat im Zuge der Durchfuehrung lediglich ein formelles Gedächtnisprotokoll mitunterzeichnet.

Ueber die Besprechung Seeborn (S. 96 Memorandum) habe ich mich bereits im Anklagepunkt I geäußert.

Bezuglich des Oesterreich-Komplexes haette sich ueberhaupt genaueres Studium des Lebenslaufes des Angeklagten Dr. Gattineau fuer die Anklagebehoerde gelohnt, denn haette sie naemlich feststellen muessen, dass dieser, von ihr fuer den Anschluss Oesterreichs als so wichtig angesehene Mann, in den entscheidenden Monaten vor und nach dem Anschluss Oesterreichs ueberhaupt nicht in Europa, sondern auf einer Studienreise in Suedafrika war, die ihn von Ende Dezember 1937 bis Mitte April 1938 von Europa fernhielt.

In der Eröffnungsrede hat General Taylor u.a. schliesslich darauf hingewiesen (27.8. Vm, S. 181 Prot., S. 190 tr.) dass Gattineau als Direktor der DAG Pressburg an der Fluenderungsstaetigkeit teilgenommen habe. Hierzu ist jeglicher Beweis ausgeblieben und wird ausbleiben, denn im Gegenteil, durch die ~~Fabrik~~ Taetigkeit Gattineaus wurde die Fabrik Pressburg zu einem Rueckgrat fuer die Versorgung der Slowakei mit chemischen Produkten des Zivilbedarfes ausgebaut und mit vorbildlichen sozialen Einrichtungen^{en} ausgestattet, die 1939 noch in keiner Form bestanden haben.

III.

Zu Anklagepunkt III:

In seiner Eröffnungsrede zum Fall VI sagt General Taylor (27.8. Vm, S. 181 Prot., S. 189/190 tr.): " Die vier Angeklagten, die nicht Mitglieder des Vorstandes waren, werden in der Anklageschrift aufgefuehrt, weil sie eine

besonders entscheidende Rolle bei den in der Anklageschrift zur Last gelegten Verbrechen spielten". Er faehrt dann weiter fort, indem er zu dem Angeklagten Gattineau kommt, der ebenfalls nicht Mitglied des Vorstandes war: " Nach 1938 nahm der Angeklagte Gattineau als Direktor einer der groessten Sprengstoffwerke der IG im besetzten Gebiet an der Beschaffung und dem Missbrauch von Zwangsarbeitern und an der Pluenderungstaetigkeit teil." General Taylor bezieht sich hier auf die Taetigkeit des Angeklagten Dr. Gattineau von 1939 bis 1945 als Direktor der DAG Pressburg. Bis heute haben wir auf einen Beweis fuer diese Behauptungen gewartet. Ohne Prophet zu sein, kann ich behaupten, dass dieser Beweis bis zum Ende des Prozesses nicht gefuehrt werden kann. Denn es gab im Arbeitsprozess der Pressburger Fabrik weder Fremdarbeiter noch Zwangsarbeiter noch KZ-Haeftlinge noch Kriegsgefangene und ebensowenig ist hier ein Fall der Pluenderung geschehen.

IV.

Zum Anklagepunkt VI:

Im Urteil des IRT wird in Bd. I, S. 252 auf die Einbeziehung von Angeklagten in eine Verschwörung oder einen gemeinsamen Plan gesprochen, dort heisst es: " Wenn sie seine Ziele kannten und ihm ihre Mitarbeit gewährten, so machten sie sich zum Teilnehmer an dem von ihm ins Leben gerufenen Plan." in keiner Weise hat sich die Anklagebehörde die Muehe gemacht, etwa diesen von ihr behaupteten gemeinsamen Plan oder die Verschwörung zu beweisen. Selbst wenn wir unterstellen wollten, dass ein solcher Plan bestanden haette, wie sollte dann der Angeklagte Gattineau in einen solchen gemeinsamen Plan oder Verschwörung eingeweiht worden sein. Schon oben habe ich darauf hingewiesen, dass Dr. Gattineau nie Vorstandsmitglied noch Mitglied des KA oder AA noch bis 1938 sonst ein Ausschussmitglied der IG gewesen ist. Nach dem Jahre 1938 hatte er keine Funktionen mehr in der IG selbst. Er wurde unter Belassung seines Titels als Direktor der IG in die Geschaeftsfuehrung der DAG Pressburg abgestellt und spaeter in den Vorstand der Donauchemie. fuer diese Funktionen wurde er dann auch in den Suedost-Ausschuss der IG berufen. Sonst uebte er auch in keiner anderen Gesellschaft Deutschlands mehr irgendeine Funktion aus.

V.

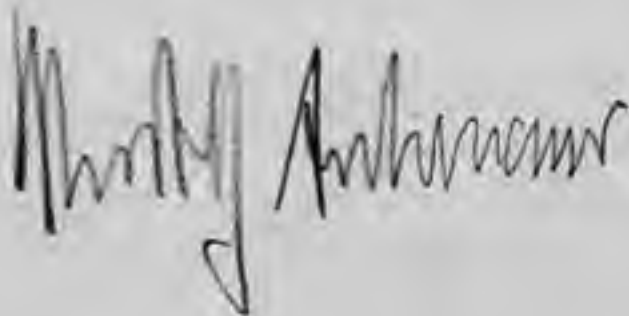
Zum Schluss erscheint es mir angezeigt, im Interesse der Gesamtwürdigung des Angeklagten Gattineau noch einige persönliche Daten anzufügen.

Der Angeklagte Gattineau, der im Jahre 1928 auf Grund seiner ausgezeichneten Examensergebnisse zu Geheimrat Duisberg als wissenschaftlicher Hilfsarbeiter und späterer Sekretär kam, ist bereits im Jahre 1931 zum Leiter der Pressestelle und im Jahre 1932 zum Leiter der Wipo innerhalb der IG bestellt worden, und zwar nicht auf Grund politischer Beziehungen und Betätigung, sondern nur auf Grund seiner fachlichen Fähigkeiten. Dr. Gattineau war bis 1933 Mitglied der Konservativen Volkspartei und hat sich als solches an der politischen Kampagne gegen den Nationalsozialismus durch Kandidatur als Abgeordneter beteiligt. Er förderte die studentische Opposition gegen die Nationalsozialisten und nahm aktiven Anteil an der Unterstuetzung der Hindenburg-Wahl. Im Zuge seiner Arbeit als Leiter der Pressestelle kam Dr. Gattineau auch mit Angehörigen des Stabes Roehm in Kontakt. Anfang des Jahres 1933 fand auf den Werken der IG eine wilde Sammeltaetigkeit der verschiedenen SA-Einheiten statt. Um diese abzustellen, verabredete Dr. Gattineau mit dem Finanzverwalter der SA eine Regelung, wonach die IG durch eine Spende von RM 100.000,— diese Einzelsammlungen ablossen wollte. Da der damalige Stabschef der SA, Roehm, offenbar auf eine Verbindung zur IG wert legte, verlieh er Mitte des Jahres 1933 Dr. Gattineau einen Ehrentitel der SA (Sturmabfuhrer), ohne dass Dr. Gattineau berechtigt war, irgendein Amt oder eine Funktion innerhalb der SA auszuüben.

Dr. Gattineau nahm diesen Ehrentitel bei der SA an, da er die Roehm-Richtung fuer geeignet hielt, die radikalen innen- und aussenpolitischen Tendenzen des Nationalsozialismus abzuschwächen. Auf Grund der Niederschlagung dieser anti-radikalen Tendenzen der damaligen SA-Fuehrung im sogenannten Roehm-Putsch durch die radikale Richtung in der Partei am 30. Juni 1934, erfolgte die Verhaftung von Dr. Gattineau durch die Gestapo. Nach der Einlieferung in die Todeszelle im Columbia-Gefängnis erloeste Dr. Gattineau kurz vor der Hinrichtung der Schiess-Stopbefehl Hindenburgs. Nach der Entlassung aus dem Gefängnis ist der Angeklagte Gattineau aus der SA ausgetreten und hat keinerlei politische Taetigkeit mehr ausgeübt, sondern sich ausschliesslich seinen wirtschaftlichen Aufgaben gewidmet.

Nach dem Zusammenbruch wurde dem Angeklagten Gattineau am 6. Juni 1945 von der amerikanischen Militaerregierung Kuehldorf die Erlaubnis erteilt, die Fabrik Aschau, in Aschau/Obb. zu eroeffnen und auf Friedensproduktion umzustellen. Im August 1945 fand eine 3-taegige eingehende Untersuchung durch eine amerikanische Offizierskommission ^{der Bayerischen Militaerregierung} in Aschau statt, die den gesamten IG-Komplex, die Taetigkeit in Pressburg und Aschau, sowie die anderen, persoenlichen Angelegenheiten des Angeklagten Gattineau betrafen. Als Ergebnis dieser Untersuchungen wurde der Angeklagte Gattineau zum Custodian fuer die amerikanische Militaerregierung ^{Bayerns} in der Fabrik Aschau eingesetzt. Nachdem ein Kontroll-Offizier die Fabrik uebernommen hatte, wurde Dr. Gattineau weiterhin als Direktor bestaetigt. Erst nach dem Erlass des Militaerregierungsgesetzes Nr. 8 wurde er wegen seines Ehrendienstgrades bei der SA verhaftet und in den automatischen Arrest genommen (11. Oktober 1945). Am 6. August 1946 wurde der Angeklagte Gattineau durch einen Befehl der 3. Armee wieder entlassen, um dann aber im Auftrag des OCCWE am 11. Oktober 1946 wieder verhaftet zu werden.

Unter Beruecksichtigung der dargelegten Umstaende und des Fehlens schluessiger Beweise fuer die Behauptungen der Anklagebehoerde halte ich mich fuer verpflichtet, den eingangs formulierten Antrag zu stellen, dem auch in formell-rechtlicher Beziehung nach den geltenden Verfahrensgrundsuetzen keine Schwierigkeiten entgegenstehen. Ich darf darauf hinweisen, dass in dem 1. grossen Prozess gegen ehemaliges Personal des KZ Dachau vor dem Militaergericht in Dachau ein Praezedenzfall vorliegt, insofern, als ebenfalls auf Antrag das Verfahren gegen einen Angeklagten vorzeitig auf Grund mangelnder Beweise abgetrennt und der Betreffende freigesprochen wurde.



418
(47)

Rudolf Aschenauer
Counsel for
defendant Gattineau

Nurnberg 28. 1. 1948.

To
The Secretary General
Military Tribunal VI
Nuernberg.

16**
FILED 29 Jan. 1948 with
Secretary General
for Military Tribunals
Defense Center

Re: Request of the Defense Counsel for Dr. Gattineau of 17 Dec 1947.

The prosecution asserted that my application of 17 Dec 1947 contained distortions of facts.

I therefore request that the Tribunal take official notice of the 260 secret documents of the former German Foreign Office setting forth the relations between Germany and the Soviet Union during the years 1939 - 1941, documents which were published by the American Foreign Office on 21 January 1948. This publication was commented upon by the "New York Herald Tribune" as follows: "America discloses Stalin - Hitler conspiracy for the partition of the world."

I reserve myself the right to make further applications for evidence for the period before 1939.

/s./ Rudolf Aschenauer

Rudolf A s c h e n a u e r,
Verteidiger des Angeklagten
Gattineau.

Muernberg, den 28.1.1948

✓
418

(42)

29 Jan. 16⁰⁰
48

An den

Herrn Generalsekretaer des
Militaergerichtshofes VI.,
Muernberg.

Betr.: Antrag des Verteidigers des Angeklagten Dr. Gattineau
vom 17.12.1947

Die Anklage hat behauptet, mein Antrag vom 17.12.1947 enthalte
Tatsachenverdrehungen.

Deshalb beantrage ich, dass das Gericht amtlich Kenntnis nimmt von
den 260 Geheimsdokumenten des fruheren deutschen Ausserministeriums
ueber die Beziehungen Deutschlands zur Sowjetunion in den Jahren
von 1939 bis 1941, die das amerikanische Ausserministerium am 21.
Januar 1948 veroeffentlichte, eine Veroeffentlichung, die " New
York Herald Tribune " wie folgt kommentiert hat: " Amerika veroeff-
fentlicht Stalin-Hitler-Verschwoerung zur Teilung der Welt."

Weitere Beweisanaeae ueber die Zeit vor dem Jahre 1939 behalte
ich mir vor.

Rudolf Aschauer

418
(43)

MILITARY TRIBUNALS

Nurnberg, Germany

UNITED STATES OF AMERICA
Against
KRAUCH and Others (Case VI)

ANSWER OF THE PROSECUTION TO A REPLY OF 9 JANUARY
1948 BY DR. ASCHENAUER

TO: The Secretary General, Military Tribunals (281):

1. Answer is made to a reply by Dr. Aschenauer, counsel for the defendant GATTINEAU, dated 9 January 1948, to the prosecution's answer of 19 December 1947 to Dr. Aschenauer's motion that Control Council Law No. 10 offers no basis for these proceedings.

2. We answer the first sentence of Dr. Aschenauer's motion -

"I regret having to point out that despite my request, the prosecution has not sent me an official translation of their reply".

So far the prosecution has always filed its answers to motions in English with Defense Center, and the Defense Center has taken care of translation and distribution. If this procedure is officially changed, we will change our practice, of course.

By:



D.A. SPRECHER
Chief, Farben Trial Team

Nurnberg: 14 January 1948
Date

For:

TELFORD TAYLOR
Brig. Gen. USA
Chief of Counsel

enc 6

Rudolf Aschenauer
Counsel for defendant
Gottineau

418
44
Nurnberg 9 January 1948

To
The Secretary General
Military Tribunal VI
Nurnberg

FILED *Jan 14 1948* with
Secretary General
of the Military Tribunals
D-10 Center

Subject: The Prosecution's reply of 19 December 1947 to my
motion the Tribunal may rule that Control Council
Law No. 10 is no basis for these proceedings

I regret having to point out that despite my request the Prosecution has
not sent me an official German translation of their reply. I therefore
have to reserve myself the right of making a further reply:

I nevertheless take the liberty to make the following statements.

The Prosecution's reply evades the problem. Their reference that in the
IMT all Defense Counsel tried a similar secondary attack is not to the
point. Before the International Military Tribunal the International Law
was argued in a general way. In my substantiation I myself stated:

"In international military tribunals the cooperation of countries
which directly or indirectly suffered from the acts indicted can
be prevented in very rare cases only and it is just this
incompatibility upon which the objections are based which in all
countries are being raised against international jurisdiction. In
this connection they shall however not be taken up in detail."

For the rest, on 19 November 1946 the secret additional transcript and
the facts mentioned in my motion were not known as yet so that the IMT
could not deal with the question which I took up and which, as to its
meaning, can be specified as follows:

"The rule: 'No person shall be his own judge' must ^{be} recognized also
in international criminal law. An international agreement aiming
at the punishment of those responsible for the war can claim
respect and validity only if none of the contracting parties can
be charged with any of the acts which are to be adjudged by an
international tribunal. If, however, one of the contracting parties
is an accomplice in the indicted offenses the agreement lacks the
'conscience publique' necessary for its enactment. The more so as
the London agreement is a novus in international law. - From the
point of view of the international law its validity is therefore
opposed".

The Prosecution's statements concerning Article II of Ordinance No. 7 are also inconclusive. In my motion I dealt with this question in detail so that I need only make reference to those statements here.

I should very much appreciate if the Prosecution would let me know where "distortions of history and facts" can be found in my motion? I am in a position to prove my statements. The Prosecution will probably know the statements made by the son of Justice Robert H. Jackson, the former American Chief of Counsel in Nurnberg, on 19 April 1947, which read:

"Another side of the question of fairness lies in the objection that the Russians whose hands are besmeared by the same guilt as that of the Nazis, would not be entitled, to condemn the Germans. The guilt of the Russians cannot be denied and cannot be justified. In secretly agreeing to the planned partition of Poland in 1939 they became partners in the Nazi crimes."

(s) Rudolf Aschensauer

Rudolf Aschenauer,
Verteidiger des Angeklagten
Gattinoni

Muenberg, den 9.1.1948

418
✓46

FILED *Jan 14 1948* with
Secretary General
for Military Tribunals
D.C. 100, 100

An den

Herrn Generalsekretär des Militär-
gerichtshofes VI, Muenberg.

Betr.: Antwort der Anklage vom 19.12.1947 auf meinen Antrag, dass
das Gericht entscheiden moege, dass das Kontrollratsgesetz
Nr.10 keine Basis fuer die Verfahren hier darstelle.

Ich bedaure feststellen zu muessen, dass die Anklagebehoerde trotz
meiner Bitte, mir eine offizielle deutsche Uebersetzung ihrer Antwort
auszustellen, dieselbe nicht an mich leitete. Ich muss mir deshalb das
Recht auf Antwort weiterhin vorbehalten.

Nichtadestoweniger darf ich folgendes erklaren:

Die Antwort der Anklage geht am Problem vorbei. Ihr Hinweis, dass alle
Verteidiger im DM eine aehnliche Nebenattacke versuchten, trifft die
Sache nicht. Es handelte sich vor dem Internationalen Militaergerichts-
hof um eine allgemein voelkerrechtliche Argumentation. Ich erklarte
selbst in meiner Begruendung:

" In internationalen Gerichten wird sich die Mitwirkung solcher Staa-
ten, die selbst durch die zur Anklage stehenden Handlungen unmit-
telbar oder mittelbar verletzt worden sind, nur in den seltensten
Faellen verhindern lassen und gerade auf dieser ' Inkompatibili-
taet ' beruhen ja die Bedenken, die in allen Laendern gegen die
Ausuebung einer voelkerrechtlichen Gerichtsbarkeit immer wieder
geltend gemacht worden sind. Auf sie soll in diesem Zusammenhang
nicht weiter eingegangen werden. "

In uebrigen waren am 19.11.1946 das geheime Zusatzprotokoll und die in
meinem Antrag angefuhrten Tatsachen nicht bekannt, sodass der DM die
von mir angeschnittene Frage nicht behandeln konnte, die man im Kern
praecisieren kann:

" Der Satz: ' Niemand darf Richter in eigener Sache sein ', ist
auch fuer das internationale Strafrecht anzuerkennen. Ein inter-
nationaler, auf Bestrafung von Kriegsschaendigen gerichteter Ver-
trag kann nur dann Achtung und Geltung beanspruchen, wenn seine
saemtlichen Vertragspartner von Vorwurf derjenigen Straftaten
frei sind, deren Aburteilung durch ein Internationales Gericht
sie anordnen. Ist dagegen einer der Partner Mittaeter der aufge-
stellten Delikte, so fehlt dem Vertrag voelkerrechtlich die
' Conscience publique ', deren er zur Durchsetzung bedarf. Dies
um so mehr, als der Londoner Vertrag ein voelkerrechtliches No-

vum darstellt. - Voelkerrechtlich betrachtet steht also seiner Geltung ein Umwirkungsgrund entgegen. "

Ebenfalls unschlüssig sind die Ausführungen der Anklage ueber Artikel II e der Ordéfiann Nr.7. Ich habe diese Frage gruendlich in meinem Antrag behandelt, sodass ich nur auf meine cortigen Ausführungen zu verweisen brauche.

Dankbar waere ich der Anklagebehoerde, wenn sie erklæren wuerde, wo sich in meinem Antrage " Geschichte- und Tatsachenverdrehungen " befinden. Ich bin der Lage, meine Ausführungen beweiskraeftig belegen zu koennen.

Vielleicht kommt die Anklagebehoerde die Ausführungen vom 19.4.1947 des Sohnes von Justice Robert H.Jackson, ehemaligen amerikanischen Hauptanklaeger in Nuernberg, in denen es heisst:

" Eine andere Seite der Frage nach der Fairness liegt in der Einwendung, dass die Russen, deren Faende durch die gleiche Schuld befleckt seien wie die Nazis, nicht berufen waeren, die Deutschen zu verurteilen. Die Schuld der Russen kann nicht geleugnet und nicht entschuldigt werden. Indem die Russen insgeheim der vorgesehenen Aufteilung Polens im Jahre 1939 zustimmten, machten sie sich selbst zu Partnern nationalistischen Verbrechens."

Winfried Andenamer

Radolf ASCHENHAUER
Counsel for defendant GATTINEAU

418
(48)
Nurnberg 19 December 1947

To

The Secretary General
Military Tribunal VI

N u r n b e r g

FILED *19 Dec 1947* with
Secretary General
for Military Tribunals
Defense Center

Subject: Request on behalf of defendant Gattineau
the Tribunal may rule that Control Council
Law No. 10 does not constitute a basis for
this trial

My colleague Dr. BONTTNER informed me about the Prosecution's reply
to my request of 9 December 1947.

I reply as follows:

The Prosecution's contention that I wanted this request treated like a
document book is incorrect. If I had wanted the treatment of my request
the Prosecution claims I would not have addressed my request to the
Secretary General, but to the Chief of the Defense Center. It is a binding
regulation for the Defense to address all letters going to the Tribunals
and the Prosecution to the Secretary General i. e. in this case to the
Secretary General of Case 6. I made the remark: "For presentation in
Case 6 on 17 December 1947" only to bring to Mr. SPRECHER's attention
that I shall make the request on 17 December 1947 so that he will not be
surprised. I can only regret that the fairness I intended was interpreted
in such a manner. On the other hand, I wanted to avoid also an interruption
which might have resulted from insufficient time for translation. The
imputation of the main Prosecutor surprises me because on 17 December 1947
at 1145 hours I directed his attention to the above remark and to the
reason for making it, as I stated above. As an attorney I am very much
surprised at the contention that a different treatment of my request
results from the fact that today I used, contrary to the rules, part of
my request in the Opening Statement. I should like to ask the main
Prosecutor whether as Defense Counsel I am not entitled to take up basic

- 2 -

questions in my Opening Statement. I believe that nobody can deny me this right. In my Opening Statement I can also refer to a request. I have the right to use in my Opening Statement even parts of the substantiation of the request.

In this case I made my Opening Statement in the way it is because of the Prosecution's tactical behavior. I therefore most resolutely reject the accusation of acting contrary to the rules, the more so as fully to comply with the procedure - I discussed the question of my Opening Statement with the Presiding Judge of Military Tribunal VI who told me that I can proceed in the way I intended to provided the time would suffice me. I therefore discussed the time question with my colleagues.

As the formal aspect of Fig. 3) :

Mr. SPRENGER made the remark: "Although the request has formally been made on behalf of defendant GATTINEAU only, the text in various passages, for instance on pages 21 - 22, uses the plural "we". It seems to me that the Prosecution is not conversant with the German phrase "we" instead of "I" if one is speaking of Defense Counsel and defendant together. So as not to leave any doubt whatsoever I declare that I acted as Counsel for defendant GATTINEAU. The text was not headed "ASCHENHAUER for all of Defense Counsel" but ASCHENHAUER for GATTINEAU".

Coming to an end I should like to state that I have to reserve me the right to reply to the material part. I therefore request an official German translation be made available to me. I am not sufficiently conversant with the English language that I can reply to such a weighty judicial question on the basis of an English text. On the other hand the Prosecution too always wants an English text of the German defense notions.

(s) Rudolf ASCHENHAUER

Rudolf A s c h e n a u e r
Verteidiger des Angeklagten
Gattineau.

418 ✓
Nurnberg, den 19.12.1947 (70)

FILED *19 Dec 1947* with
Secretary General
for Military Tribunals
Defense Center

An den

Herrn Generalsekretär des
Militärgerichtshofes VI.
Nurnberg.

Betr.: Antrag fuer den Angeklagten Gattineau, dass das Gericht
entscheiden moege, dass das Kontrollratsgesetz Nr.10
keine Basis fuer das Verfahren hier darstelle.

Die Antwort der Prosecution zu meinem Antrag vom 9.12.1947 ist
mir durch Herrn Kollegen Dr.Boettcher zur Kenntnis gekommen.

Zu Ziffer 1) erwidere ich:

Die Behauptung der Anklage, dass ich gewünscht haette, dass die-
ser Antrag behandelt werden wurde, wie ein Dokumentenbuch, ist
unrichtig. Wenn ich die von der Anklagebehoerde unterstellte Be-
handlung meines Antrages gewünscht haette, dann haette ich den
Antrag nicht an den Herrn Generalsekretär gerichtet, sondern an
den Chief of the Defense Center. Es ist eine feststehende Regel
fuer die Verteidigung, dass saemtliche Schreiben, die an das Ge-
richt und an die Anklagebehoerde gehen, an den Herrn Generalse-
kretär, in dem betreffenden Falle VI, adressiert werden. Die Be-
merkung: "Bestimmt zum Vortrag im Falle VI am 17.12.1947" habe ich
nur gemacht, um Herrn Sprecher darauf aufmerksam zu machen, dass
ich den Antrag am 17.12.1947 stelle und er nicht ueberrascht ist
ueber denselben. Ich kann nur bedauern, dass die von mir beabsich-
tigte Fairness derartig ausgelegt wird. Andererseits wollte ich
auch jede Panne vermeiden, die sich aus zeitlichen Uebersetzungs-
schwierigkeiten haetten ergeben koennen. Ich bin ueberrascht ueber
die Unterstellung des Herrn Hauptanklagevertreters, da ich ihn am
17.12.1947 11.45 Uhr auf die Bemerkung und auf den Grund der Be-
merkung, wie ich ihn eben dargestellt habe, selbst aufmerksam ge-

nacht habe.

Die Behauptung, dass sich eine andere Behandlung meines Antrages draus ergibt, dass ich heute Teile meines Antrages verbotswidrig in meinem Opening-statement verwandt haette, ist fuer mich als Juristen sehr ueberraschend. Ich moechte den Herrn Hauptanklagevertreter fragen, ob ich als Verteidiger nicht das Recht habe, grundsatzliche Fragen, die in meinem Opening statement zu behandeln. Ich glaube, dieses Recht kann mir niemand nehmen. Ich kann auch in meinem Opening statement auf einen Antrag Bezug nehmen. Ich habe das Recht, selbst Teile der Antragsbegrueundung in einem Opening statement zu verwenden.

In diesem Falle habe ich, gezwungen durch das taktische Verhalten der Anklagebehoerde, mein Opening statement zur gehaltenen Form umgebaut. Ich weisse deshalb den Vorwurf der Verbotswidrigkeit auf das entschiedenste zurueck, umso mehr ich, um in meinem Vorgehen keinen prozessualen Fehler zu machen, die Frage meines Opening statements am 17.12.1947 mit dem Herrn Praesidenten des Militaergerichtshofes VI erortert habe, der mir erklarte, ich koenne in der von mir vorgesehenen Form vorgehen, ich muesse nur mit der Zeit zurechtkommen. Die Zeitfrage habe ich deshalb mit meinen Kollegen besprochen.

Zur formellen Seite in Ziffer 3):

Herr Sprecher hat die Bemerkung gemacht: " Obwohl der Antrag formell nur fuer den Angeklagten Gattineau gestellt wurde, verwendet der Text die Mehrzahl " Wir " an verschiedenen Stellen, z.B. Seite 21 - 22. Ich glaube, dass der Anklagebehoerde die deutsche Formel " Wir " an der Stelle von "ich" nicht bekannt ist, wenn von dem Angeklagten und von dem Verteidiger gesprochen wird. Um aber jeden Zweifel auszuschliessen, erklare ich, dass ich als Verteidiger des Angeklagten Gattineau handelte. Es hiess ja auch nicht " Aschenauer fuer die Gesamtverteidigung ", sondern " Aschenauer fuer Gattineau."

Abschliessend moechte ich bemerken, dass ich die Beantwortung des sachlichen Teils mir vorbehalten muss. Ich moechte darum bitten, dass mir eine offizielle deutsche Uebersetzung zugestellt wird. Ich bin des Englischen nicht derartig faehig, dass ich in einer schwerwiegenden juristischen Frage auf einen englischen Text hin die Antwort geben kann. Die Anklage wuenscht ja auch ihrerseits immer den englischen Text bei einer deutschen Eingabe der Verteidigung.

Willy Aukmann

418
(53)

MILITARY TRIBUNAL

Nurnberg, Germany

UNITED STATES OF AMERICA

Against

KRAUCH and Others (Case VI)

ANSWER TO THE APPLICATION ON BEHALF OF THE DEFENDANT GATTINEAU THAT THE TRIBUNAL DETERMINE THAT CONTROL COUNCIL LAW NO. 10 DOES NOT CONSTITUTE A BASIS FOR THE PROCEEDINGS HEREIN.

TO: The Secretary General, Military Tribunals (Room 281)

1. Answer is made to the application by Dr. Rudolf Aschensuer, defense counsel for the defendant GATTINEAU (Translation bears the date 13 December 1947), requesting that the Tribunal determine that Control Council Law No. 10 is not a basis for these proceedings. According to the Defense Center, defense counsel indicated to the Defense Center that it was desired that this application be handled as a document book. That petitioner desired the matter to be treated differently than a normal written motion or application is also indicated: (a) by the remark on the first page of the application: "(intended to be read in the session of 17 December 1947.)"; (b) by the fact that Dr. Aschensuer proceeded to read verbatim for pages from this motion during his "opening statement" (sic) on 19 December 1947, despite the Tribunal's decision on 17 December 1947 that he be not allowed to read the motion before the Tribunal.

2. The prosecution requests that the Tribunal deny the motion in its entirety. Since this motion, which the prosecution thinks improper in its very nature, has now become a part of the record the prosecution desires to make it clear that its answer on a legal basis in no way whatsoever condones numerous distortions of history and fact asserted in the application.

3. The application is a challenge to the jurisdiction of the Tribunal under Ordinance No. 7 since it questions the competence of the law under which the Tribunal is constituted. Incidentally, the application is also a challenge to the London Agreement and to the Charter of the IMT which is neither subtle nor modest, however much it apologizes for some of its conclusions and however much it reaches conclusions by innuendo and oblique reasoning. The prosecution does not intend to comment expressly on the

significance of the unusual procedure followed in presenting this "application" or upon any possible or probable motives which may or may not be directly deduced from all surrounding circumstances. Although the application is formally filed only on behalf of the defendant GATTINEAU, its text uses the plural "we" ("wir") at several points (for example, see pp. 21-22). If other defense counsel actually support this motion, it would be ^{SIGNIFICANT} interesting to have this on the record. If this is true, it would be helpful to have the application simplified and clarified so that any possible significance it may have beyond a challenge to the jurisdiction of this Tribunal might clearly appear. (Therefore, a copy of this answer is being served upon Dr. Boettcher, spokesman for all defense counsel).

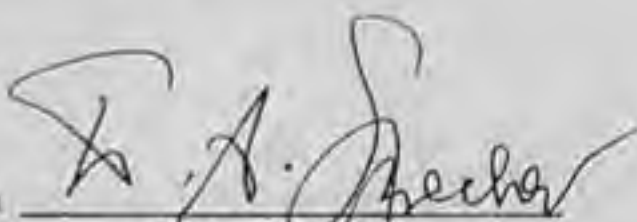
4. The motion "as a precaution" claims that Article II (e) of Ordinance No. 7 does not preclude the application as being a challenge to the Tribunal's jurisdiction under Ordinance No. 7 (page 2, English Text). Of course, a challenge to the competence of the law under which the Tribunal is constituted is a direct challenge to the Tribunal. By its very wording, Article II (e) of Ordinance No. 7 is not limited to the challenging of the members or deputy members who are appointed to the Tribunal. The provision states "Neither the Tribunals nor the members of the Tribunals ... may be challenged". The equivalent provision of Article III of the Charter of the IMT is in the same form and to the same effect: "Article III. Neither the Tribunal, its members nor their alternates can be challenged" (p. 10, Vol. I, Trial of the Major War Criminals, English Text).

5. All the defense counsel in the IMT case attempted a similar collateral attack upon the jurisdiction of the Tribunal by a motion filed on 19 November 1945, the day before the actual opening of the trial in that case (pp. 108-170, Vol. I). In that motion the defense petitioned "that the Tribunal direct that an opinion be submitted by internationally recognized authorities on international law on the legal elements of this trial under the Charter of the Tribunal" (p. 170, Vol. I). The earlier text of that motion argued that there was as yet no "valid international law" and pointed out that so far in international law there was no "thought of bringing up for trial the statesmen, generals, and industrialists of the State which resorted to force"

(p. 168): argued from alleged "commonly recognized principles of jurisprudence" (p. 169) in that "the Judges had been appointed exclusively by States [USA, French Republic, United Kingdom and the USSR] which were the one party in this war". The IMT ruled on 21 November 1945: "A motion has been filed with the Tribunal and the Tribunal has given it consideration. Insofar as it may be a plea to the jurisdiction of the Tribunal, it conflicts the Article III of the Charter and will not be entertained. Insofar as it may contain other arguments which may be open to the defendants, they may be heard at a later stage" (p. 96, Vol. II, Trial of the Major War Criminals, English Text). The prosecution submits that the 23 page motion now before this Tribunal raises no different questions whatsoever than the three page motion before the IMT referred to above, which was signed by Dr. Stahmer, spokesman for all defense counsel before the IMT. It is also interesting that Dr. Aschenauer did not sign the defense motion "for a finding of not guilty", dated 17 December 1947 - and that this motion states:

"In their judgment the IMT has determined in a manner which is binding upon every Tribunal trying War Crimes Cases at any later date that the following warfare actions of the German Government constituted aggressive wars".

6. It is submitted that this is another attempt to involve this proceeding in collateral issues.

By: 
D. A. SPRUCK
Chief, WARREN TRIAL TEAM

Munberg, 19 December 1947
Date

For: TELFORD TAYLOR
Brig. Gen. USA
Chief of Counsel

418
56

APPLICATION BY DEFENSE COUNSEL ASCHENAUER
OFFICE OF CHIEF OF COUNSEL FOR WAR CRIMES

APPLICATION

of Defense Counsel

Rudolf Aschenauer

for defendant

Heinrich Gattinone

Case VI

FILED 17 Dec. 1947

Secretary General
for Military Tribunal
Nürnberg, Germany

(intended to be read in the session of 17 December 1947.)

APPLICATION BY DEFENSE COUNSEL ASCHENAUER

In the sentence pronounced on 3 and 4 December 1947 in Case III, the American Military Tribunal tried to explain the principles determining Control Council Law No. 10. It cited a number of reasons to substantiate the basis of the trials.

One question, however, which I now submit to Military Tribunal No. VI the Court passed over in silence: The significance of the German-Russian Secret Treaty of 23 August 1939 for the coming into existence of the Law and incidentally for the proceedings instituted here.

I therefore enter a plea and make the following motions:

- 1) Let the Court examine the significance of the Secret Treaty, after that
- 2) ascertain, that Control Council Law, No. 10 is void as an international treaty, therefore does not constitute a basis for the proceedings instituted, since a state has collaborated as co-signatory whose responsible organ participated in the war of aggression, whose planning preparation and conduct in addition to collaboration in the same, is being prosecuted in accordance with the treaty in question. Justification for entering the plea and making the motions is based on the following:

The imaginative indictment of Case VI considers as Count I the collaboration of the defendants in planning, preparation, the start and conduct of aggressive wars and invasions of other countries. Their guilt is consequently connected directly with similar deeds of defendants in I Nurnberg War Crimes Trial.

As determined by the I Nurnberg judgement, invasions

APPLICATION BY DEFENSE COUNSEL ASCHENHAUER

- 2 -

of individual countries were in accordance with a master plan. The characteristic of the unleashing of aggressive war can be divided outwardly as far as time is concerned into an attack on Poland, Norway, Holland, Belgium, France, Yugoslavia and Russia. From a legal point of view, the Prosecution looks upon these events as a series of events unrolling, which, starting with the attack on Poland on 1 September 1939 followed one another in a cause and effect sequence.

Basis for criminal prosecution because of participation in these deeds is Control Council Law 10 dated 20. December 1945.

Before going into my arguments, so that the motions may be considered by the Honorable Court in conjunction with the secret Supplemental Protocol dated 23 August 1939, proofs must be offered to corroborate the statement of the defense, that

- a) Russian deputies vested with full powers, in discussions at the Soviet Embassy ^{in Berlin} in 1932 thwarted the formation of a united front of German anti-fascist parties against the NSDAP, so as to enable the NSDAP to come to power.
- b) the NSDAP further was financially supported by Moscow before the seizure of power in 1933;
- c) the NSDAP further was permeated by elements whose allegiance was to Moscow.

As regards the formal side, as a precaution, I take the liberty of pointing out besides that article 2c of the Decree of Military Government No. 7 concerning constitution and competence of certain Military Courts, dated 18 October 1946, does not preclude the applications made.

The provision mentioned states:

"Neither the courts nor their members or deputy members can be challenged by the Prosecution, the defendants or Defense Counsel".

Article 2 c of Decree No. 7 combines two view-points, which, according to German Criminal law are, as a rule, dealt with separately: the challenging of judges and the raising of interlocutory objections.

- 2 -

APPLICATION BY DEFENSE COUNSEL ASCHENAUER

- 3 -

Decree No. 7 gives power to determine such a limitation of procedural rights of the defendant. In the case in hand however, it is not a question of the raising of such a protest. Challenging of individual judges or of the whole Tribunal (the latter is also not permissible according to normal German criminal law) is not intended here, at all. Nor am I disputing the procedural competence of the Tribunal. The objections are in another direction rather, and that, in such a case as should not be excluded or cannot be excluded by Article 2 c of Decree No. 7.

I start the question whether the proceedings, in view of the international history of origin of the norms determining punishment of war criminals, is permissible at all. Doubt is therefore cast, not on the merely material and legal competence of the Court as such, (this would not be worth considering according to Article 2c of the Decree named), but the basic question is posed as to whether the whole system of material and procedural norms laid down for judging war crimes, especially in view of its origin, can make any pretension to legal validity at all. Such a conclusion naturally cannot be excluded by a provision such as is contained in Article 2 c of Decree No. 7. Crudely expressed: a law that is materially or formally void cannot escape scrutiny simply because it forbids it, rather the right remains and, in circumstances, also the duty to examine legally every norm, which will have to be demonstrated later.

For these reasons the provision of Article 2 c of Decree No. 7 is not opposed to the application.

I present the following reasoning in support of the plea and motions:

I.

The direct international basis of the prosecution of the German War Criminals is the so-called Moscow Declaration of 30 October 1943. Literally this common declaration refers, it is true,

- 3 -

443
60

APPLICATION BY DEFENSE COUNSEL ASCHENAUER

- 4 -

only to the war criminals in the narrower sense, i.e., the perpetrators of atrocities in territories occupied by the German Armed Forces during the war; principles laid down in it have however achieved general significance for the prosecution of all guilty according to Article II of the later Control Council Law, No. 10. This holds in particular for the principle that the prosecution of those guilty of and in the war, should be the joint affair of the Allied Great Powers. On the basis of the provisions within the framework of the Moscow Declaration, the London Agreement of the Four Great Powers was issued on 8 August 1945 after conclusion of hostilities as a result of which constitution of a Tribunal for passing judgment on such deeds was agreed on, for which a regionally defined place of crime does not exist. A statute was added to this agreement which regulated the constitution, competence and procedure of the Military Tribunal. Justification for issuing such a statute has been thoroughly established in the Spornberg Main verdict of 1 October 1946 among others: "The Statute was elaborated in exercising the sovereign power of legislation of those States to whom the German Reich surrendered unconditionally and the irrefutable right of those countries to issue laws for the occupied territories has been recognised by the civilised world. The Statute is no arbitrary exercise of power on the part of the victorious nations but, in the opinion of the Tribunal, as will be shown, the expression of International Law in existence at the time the Statute was made; to this extent the Statute itself is a contribution to International Law".

From the fact that the Allied Great Powers, represented by their organs authorised to act in accordance with international law, issued this Statute as an integral part of the London Agreement dated 8 August 1945, as well as from the characterisation of the Statute by the verdict of the International Military Tribunal, it inevitably ensues that this Statute itself is to be regarded as an international treaty between the participating Great Powers. Nor has this result been doubted by any party. Be that as it may, it is important to refer in particular to the legal nature of the Statute.

- 4 -

- 6 -

Looked at from the point of view of formal law, the prosecution of further war crimes cases has not been carried out on the basis of the Statute dated 8 August 45, but on the basis of norms which differ from this both as regards sources and order. The Control Council issued on 20. December 1945 the well-known Law No. 10 which contained the substantive provisions and the general basic characteristics of procedural law for war crimes trials in view, which had not been proposed for a hearing before the International Military Tribunal. The question is therefore what type of law, from the point of view of source and validity, this norm characterised as "Law No. 10" is to be considered. In our opinion, Control Council Law No. 10 is to be termed a law issued by the Inter-allied Occupation Power valid for Occupied Germany, materially on the other hand an international treaty and, at that, a so-called implementation or execution Agreement to the London Protocol dated 8 August 1945. The possibility and necessity of attributing to the same legal norm the nature of both treaty and law is no anomaly in legal practice but is quite customary and occurs frequently.

This dual nature of norms in question results from the peculiar dualistic position conceded by the Occupying Regime to the Control Council.

a) The Control Council exercises sovereign power "in Germany". It is the supreme legislator for the German Reich territory, the only legislator too in principle in the spheres reserved to it. As a result of total capitulation, the Declaration dated 5 July 45 and the Potsdam Agreement, it has taken the place of the previous legislator for the Reich. Therefore, norms issued by it valid for German Reich territory have the character of German laws.

b) At the same time, the Control Council is also an international inter-allied organ. Whether one designates the community of states represented by it - the 4 Allied Great Powers - as a Federation of States, as international local administrative union as condominium union or something else, is immaterial. The fact that the Control Council functions simultaneously

- 5 -

4/12
62

APPLICATION BY DEFENSE COUNSEL ASCHENAUER

- 5 -

as organ of the 4 Great Powers within the scope of the competence conferred on it by the Agreement mentioned, is alone decisive. True, its powers are limited, also the Control Council, for its part, is under the immediate supervision of the Conference of Foreign Ministers, yet the fact that the Control Council is, at the same time, an inter-Allied, international organ of a community of states, remains unaffected by these limitations. It ensues that the Control Council Law No. 10 represents, in the first place, an international agreement, that, at the same time however, it is a valid "internal" law for Germany.

As a treaty, Law No. 10 - without prejudice to its formal putting into operation and publication as internal German law - is subject to the critical examination to which every international agreement is subjected as regards origin, efficacy and range. In particular basic laws recognised by common international law concerning nullity, invalidity or concrete non-applicability of treaties, must apply also to Control Council Law No. 10.

"The legal nature of Decree No. 7 of Military Government, as regards constitution and competence of certain military courts dated 18 October 1946 is to be judged in another way. According to Article II of the Decree, the latter was issued",..... on the basis of the authority of the Military Governor of the American Occupied Zone of Germany, as well as on the basis of the powers conferred on the Commander of the zones by Control Council Law No. 10 and Articles 10 to 11 of the Statute of the International Military Tribunal (Appendix to London Protocol dated 8 August 1945)." True the Military Governor of the actual zone of occupation has to a certain extent a dual role too; within the scope of his authority he is the supreme "internal legislator" within the zone at the same time an organ of the state whose armed forces occupy the zone also, empowered with limited international competence. Yet in connection with the case in question, this dual role plays no part; for Decree No. 7 has been issued - like customary legal norms of so-called "zone law" - by the Military Governor in his capacity as internal

- 6 -

APPLICATION BY DEFENSE COUNSEL ASCHENAUER

- 5a -

some legislator, as the person vested with supreme legislative power within the zone. Looked at from a formal point of view, therefore, Decree No. 7 is not an international norm from the point of view of law but merely an internal norm.

- 5a -

418
64

APPLICATION BY DEFENSE COUNSEL
ASCHENAUER

- 7 -

Materially from the point of view of its legal validity, it ^{too} cannot, entirely be solved by the Control Council Law No. 10 either. It was issued for the purpose of carrying out an international treaty, that is the Control Council Law No. 10. As an implementary regulation it cannot have material independence from the rule, which it is supposed to realize procedurally and state more precisely. If for instance the Control Council Law No. 10 should be abrogated or fundamentally changed, then this Decree No. 7 would not be effected by that formally, but materially its basis for application would have disappeared. The same could, under circumstances, be true for the case that a change in the legal interpretation of Control Council Law No. 10 would eliminate entirely or partly its material effectiveness, also in this case Decree No. 7 would be effected.

As a result, therefore, it is to be kept in mind that Control Council Law No. 10 is only formally an internal state law, in view of its origin and effect. In other words materially, it is an international treaty and is in particular in examination of its actual applicability subject to the general rules in force regarding international treaties. The Decree No. 7 is an internal legal implementary regulation of an international treaty and therefore, even though formally independent of it, bound in its material effectiveness by the validity of that agreement.

II.

In my view the London "Protocol" of 8 August 1945, with all the rules issued for its supplementation and execution, constitutes a new legal institution, from the angle of international law, seen politically it is an experiment. The London treaties including the implementary regulations must be classed with those treaties that in view of the subtlety of the questions dealt with will in future only then be able to claim validity and general recognition, if these treaties have originated with politically loyal partners in a politically loyal manner. If this is the case, then the principles laid down for the first time in these treaty instruments and practically applied in Nurnberg

412
(65)

APPLICATION BY DEFENSE COUNSEL
ASCHENAUER

- 8 -

for the first time will succeed and be able to claim validity for all future; however, if this is not the case, then the public conscience will some day, sooner or later, form a negative opinion about this kind of procedures, entirely without regard to the number of judgments pronounced and the number trials actually held, and the time will inevitably come, when this kind of procedures will not be considered as a continuation, but as a misuse of international law, and the holding of these trials will no more be regarded as generally binding criminal justice.

Therefore it must be examined, whether the London treaties of 8. 8. 1945 with implementary regulations can stand up against the objective criticism, which public conscience is entitled to raise against such a far-reaching and momentous novel institution of international law. The substantive criminal law is not under discussion in this application neither the proceedings as such. In this application it is requested to examine, from the viewpoint of international law, the tenability of these group of treaties in reference to one part of its originators and their own conduct relevant to international law. The axiom "Nobody may be judge in his own matter," is a matter of course rule for the national penal law. This is expressed by the catchword of the "Judex Inhabilis": The judge is excluded from exercising his authority, if he himself was hurt by the criminal act or has a certain close relationship to the injured. Another reason for excluding the judge is not even mentioned in the procedural codes because it is absolutely evident.

also

The judge may/not exercise his powers as a judge if he himself is under suspicion of being a perpetrator or participant in the crime that is up for judgment. Compared to the national law of criminal procedure the principles of "Judex Inhabilis" can in international law naturally be of only lesser importance. In international courts the participation of such states, directly or indirectly injured by the actions under indictment, will only in the rarest of cases be preventable and just on this "incompatibility" the misgivings are based, which again and again have been expressed in all countries against the exercise of an international jurisdiction.

48
(66)

APPLICATION BY DEFENSE COUNSEL
ASCHENAUER

- 9 -

We shall not go into that in this connection. But contrary to that the principles in force regarding the unfitness of the judge suspected of the crime claim significance also for the international law and the more so: The accomplice to war crime or even more the provoker of it must not be considered qualified to participate in proceedings against such war crimes.

It requires no special argument that the principles developed here have only indirect significance for the concrete proceedings. The country, to which the judges of the concrete proceedings belong, is free from suspicion of complicity in the instigation of an aggressive war. Something more profound is involved here: The same principles applicable to the judge must also apply to those instructing the court and providing the rules for the judge's decision. An international treaty designed to punish war criminals can demand respect and validity only then, if all the parties to the agreement are themselves beyond reproach regarding the criminal actions, the judgement of which they refer to a special court by international statute. In case, however, one of the states participating in the treaty has put itself outside the international law by participating in crimes that are subject of the indictment, then the judicial sovereignty of the tribunal is tainted with an unremovable defect, no matter which one of the victorious nations provides the judges. Considering the question of general validity such rules of procedure cannot constitute a "contribution to the development of International Law"; for a treaty that originated in this manner lacks a priori that authority before the "conscience publique", which such a novel creation in international law must possess if it is to succeed. The participation of an illoyal partner destroys the authority of such an agreement and is liable to make the participation of the partner not incriminated appear in a light detrimental to the validity claim of the international agreement.

418
⑦

APPLICATION BY DEFENSE COUNSEL
ASCHENAUER

- 10 -

From the viewpoint of international law the validity of such a treaty is opposed by a cause for ineffectiveness (Unwirksamkeitsgrund). At this point the statement may for the time being suffice that under certain conditions an "exceptio expersona" directed against the whole conduct of one of the treaty partners may justify the invalidity of the whole treaty system. Therefore the reasons must be at first examined, the affirmation of which must in our opinion lead to denying the quality to the Soviet Union of being a qualified party to the agreement of 8.8. 1945.

III.

In this connection it may be disregarded to what extent the Soviet Union regards itself bound by the system of the so-called war renouncing agreements (Kriegsnechtungsabakte). It is known that on 25 July 1932 she concluded a non aggression and neutrality treaty with the Polish Republic. This treaty which both parties ratified, was undisputedly in force at the time Polish-German relations became acute in 1939. In its contents this treaty corresponded with the other treaties which the Soviet Union concluded with the border states and of which the common characteristic feature was that the Soviet Union summarized the rights and duties of the treaty partners always in bilateral agreements only, while avoiding a collective participation of the other bordering states, in order to prevent by that as far as possible, the eventual forming of a block among the border-states themselves.

In detail the agreement of 25 July 1932 contained the following obligations:

- a) A non-aggression obligation;
- b) a neutrality obligation;
- c) an arbitration court clause
- d) a clause, concerning the prohibition to participate in any agreements directed against one of the treaty partners.

This agreement was, as mentioned, not renounced by either party and in force, when the historic negotiations took place between Ribbentrop and Stalin in Moscow on 23 August 1939.

48
68

APPLICATION BY DEFENSE COUNSEL
ASCHENAUER

- 11 -

The agreement which was reached there found its expression in two immediately effective treaties: the so-called non-aggression pact of 23 August 1939, whose contents were soon afterwards announced to the world, and the "secret supplementary clause to the non-aggression pact" of the same date, which, in accordance with the purpose for which it was meant, pursuant to article 2, "was to be given top secrecy treatment by both parties". In the first Nuremberg trial, the secret supplementary clause was not introduced in evidence. Its text was given by the American representative of the Prosecution, Thomas I. Dodd, in the course of the trial, to the correspondent of the "Saint Louis Post Dispatch", Richard D. Stokes, who published it in the above mentioned paper on 22 May 1946.

That the text of the secret clause was not admitted during the first trial was based on the court's belief that the origin of the document could not be established with certainty. This situation, however, has changed after the first Nuremberg trial. Although 18 months have passed since the secret clause was first published, and although the International Military Tribunal did not doubt the existence of such a clause, the Soviet Government did not so far refute its existence. Details about the negotiations concerning the secret clause, and that it corresponded to the meanwhile published text, have furthermore been confirmed by the testimony given by Dr. Fr. Gaus during the Nuremberg trial of 15 March 1946. Taking all this into consideration, there is neither any reason nor any possibility to doubt the existence of the secret clause, the more so as the prejudication of the first trial is not shaken in any way; the guilt attributed to organs of the German Reich regarding the aggressive war against Poland, which has been ascertained in the first Nuremberg trial, cannot be voided by the existence of the secret clause; however, the first Nuremberg verdict did not prejudicate that the responsible organs of the Soviet Union were innocent, or that they did not participate. This evidence, therefore, cannot thus be excluded.

418
69

APPLICATION BY DEFENSE COUNSEL
ASCHENAUER

- 12 -

Additional

The secret clause to the non-aggression pact reads as follows:

"Following the signing of the non-aggression pact between the German Reich and the Union of the Socialist Soviet Republics, the undersigned plenipotentiaries of both parties, in a strictly confidential discussion, debated the question of demarcating their respective spheres of interest in Eastern Europe. The discussion yielded the following results:

- 1.) In the case of territorial-political changes in the territories of the Baltic States (Finland, Estonia, Latvia, and Lithuania) the northern borders of Lithuania shall form the common demarcation line for the German and USSR spheres of interest. Both parties, in this event, will recognize Lithuania's interest in the Vilna area.
- 2.) In the case of a territorial-political change in the territories of the Polish State, German and USSR spheres of interest will be approximately demarcated by the line formed by the rivers Plesna, Narow, Vistula, and San. The question, whether the interests of both parties would make it desirable to keep an independent Polish State in existence, and how this state's borders should run, can only be finally settled in the course of future political developments. In any of these cases, the two governments will solve this question by the method of friendly negotiations.
- 3.) Concerning Southeastern Europe the Soviets wish to stress their interest in Bessarabia.
- 4.) Both parties will treat this as a strictly secret clause.

Moscow dated 23 August 1939

For the German Reich Government: v. Ribbentrop
For the Government of the USSR: W. Molotov."

The clearness of the goals which both parties aimed at in this pact, which, at least as far as Finland - after the British-French guaranty - and above all, Poland are concerned, could only be achieved by armed aggression, speaks a sufficiently distinct language, in spite of all formal wording which is expressed in possibilities.

418
70

APPLICATION BY DEFENSE COUNSEL
ASCHENAUER

- 13 -

Nevertheless, in order to signify the nature of this pact, which was the actual focal point of all the agreements and which degraded the "non-aggression pact" into nothing else but a front, certified evidence will be submitted, which has been supplied by persons who participated in these negotiations. According to Ribbentrop's testimony at the first Nuremberg trial, he and Stalin never thought of including the possibility of a peaceful settlement of the German-Polish conflict; on the contrary, Stalin stated that the negotiations would have to be considered as broken down, if the USSR did not receive a promise that she would obtain half of Poland, Lithuania, and the port of Libau. Agreeing in the essential points, but by far more comprehensive, is the affidavit by Dr. Fr. Gause, the chargé d'affaires of the Soviet Legation in the Foreign Office. According to his testimony, Ribbentrop, during the negotiations with Stalin on 23 August 1939, mentioned the attack against Poland as a very possible move, although not referring to it as a matter, definitely decided upon - which is clear enough in diplomatic intercourse; The Soviet representatives took note of this statement and, afterwards, commenced the discussions on the territorial problems that would arise from such an "eventuality".

Politically viewed, the contents of the secret clause boil down to a relatively simple formula:

All those concerned knew full well that the German war of aggression against Poland was only made possible by the Russian attitude. From this - in case of a Russian abstention by no means "impending", but for all practical purposes completely impossible, in any case, highly improbable - "eventuality" of a German attack against Poland, the impending German attack became an absolute certainty following the Russian approval. That, dynamically, it was not Germany but the Soviet Union which touched off the aggression against Poland, cannot be doubted when considering the attitude of the Kremlin in those fateful hours: The share in the booty, which with Eastern Poland, the whole of the Baltic States, a free hand in Finland

48
71

7

APPLICATION BY DEFENCE COUNSEL
ASCHENAUER

- 14 -

and Romania, by far exceeds the ^{inimaginable} gains, under the most favorable conditions, of the actual "aggressor", is a symptomatic expression of the all-important part the Soviet Union played in the launching of the European war. That much about the political aspects. In the light of international law, the attitude of organs of the USSR towards Poland, at least signify a violation of, the treaty of 25 July 1932; in this treaty the Soviet Union assumed the obligation not to participate in any agreement which was directed against the other signatory of the pact. It can be said that there is hardly a more severe form of an agreement, directed "against" another state, than that which prepares and makes possible the military annihilation and mutilation of the co-signatory, and it is equally difficult to conceive a more drastic form of "joining" or "participating" in such a treaty, as the one chosen by the USSR; for, from a political point of view, this was a partitioning agreement, to be realized by force of arms, which was solely the concern of the USSR and the German Reich. The fact that both states, Germany and the USSR, "considered" or were "prepared to consider" the possibility of the continued existence of a territorially smaller Poland, makes just as little difference in the face of the irrefutable marking off of spheres of interest, as the fact that the decisive battle was to be fought by the German Wehrmacht, while, in the first stages, the Soviet Union was remaining in the background. The fact that the Soviet march into Polish territory was supported by the argument of the "decline", respectively the "cessation" of the Polish State, which, in the eyes of the Soviet Union resulted in the end of the Polish sovereignty, and thus the expiration of the Soviet non-aggression obligations from the pact of 25 July 1932, bypasses the actual issue, and can only be assessed as a pretence. For at that time a demilitarization of Poland had not taken place yet, even according to German views, and the German military and political authorities were themselves surprised by the premature marching of Soviet troops into the Polish Eastern territories. However, this is not even the point of question. For the violation of the Soviet Polish treaty of 25 July 1932 did not take place.

48
70

APPLICATION BY DEFENSE COUNSEL
ASCHENAUER

- 15 -

only on 14 September 1939, the day of the invasion, but already by concluding that secret agreement on 23 August.

The actions of the Soviet Union not only mean an offense against Poland in the light of international law, but an offense against the community of nations in general. Apart from its regional non-aggression- and neutrality pacts, the Soviet Union, as a co-signatory, was also bound by the stipulations of the Kellogg Pact, which, in its diplomatic relations, it tried to lend specific importance by stating that it concluded many of its non-aggression pacts, after the Kellogg Pact had become effective, with its neighbor states as an "extension" of, an "enlarging" upon the ideas of the Kellogg Pact; thus, the Soviet-Polish non-aggression pact expressly refers to the Kellogg Pact. In its capacity as member of the League of Nations since 1934, the USSR had the same obligations to secure the peace.

To conclude this paragraph I want to refer to a statement made by Daladier in his speech of 13 July 1946 in the French constituent assembly, in which he declared: "the Soviet Union conducted two negotiations at the same time: One secretly, and another one almost publicly. Russia's decision, as Leon Blum sees it too, has actually been made as early as April".

Sir Neville Henderson in his memoirs "Failure of a Mission" comments on this even more comprehensively: "It is hoped that some light will be shed on the question, whether Stalin had a secret agreement with Hitler from the very beginning, and that he wanted to protract his negotiations with us to the point, where Germany would have been ready to launch its attack, or whether both Germany and ourselves were merely his tools. I personally am inclined to accept the second explanation, but this is a mere assumption; I, too, am biased. From the beginning I considered the Russian negotiations as something that should be tried, but in which all sense of reality was lacking. I never believed in any effective or altruistic Russian assistance for the Poles. On the other hand,

APPLICATION BY DEFENSE COUNSEL
ASCHENAUER

- 16 -

I hoped that, if the Soviet Union - even only in a very half-hearted way - would join the peace front, Hitler would consider it more advisable to be prudent, and decide in favor of peaceful discussions. But again and again I was of opinion that Moscow's chief aim was to involve both Germany and the Western Powers in a common disaster, and to emerge from the conflict as the *"tertius gaudet"*.

IV.

The above specified attitude of the responsible organs of the Soviet Union, in conjunction with international law, not only meets all the prerequisites, embedded in international law, clauses of the so-called offence against international law, as it has been recognized for a long time. Beyond that, it also constitutes a crime against international law, as defined in the London Statute of 8 August 1945.

According to the standard of the "new international law" created by the London Statute, only war crimes committed by the vanquished are to be tried, while the international penal code and jurisdiction does not cover the victor nations, their organs, and acting persons. Legally viewed, this is only an exemption from trial which, because of international legal or political reasons, not to be examined in this connection though, excludes a calling to account by trial of any of the victor nations or their members. If it were otherwise, the non-prosecution of members of the victor nations could only be based on the presumption that no international legal organ and no belligerent of the Allies had at any time committed a crime, in the sense of the London Statute, during the whole of the war. There is no one who could seriously advance such presumption.

/ united against the Axis /

APPLICATION by DEFENSE COUNSEL ESCHENAUER

The failure to prosecute these cases may be due to reasons of politics, may-be even of international law, in the extreme case even to reasons of procedure - all this does not alter the fact that as far as substantive penal law is concerned all the elements of these offenses are present in a number of cases. The fact that these offenses were committed by the opposite party, even, in a special case, not be prosecuted must by no means result in the consequence that the existence of these crimes is denied where legal consequences other than a concrete prosecution are ensuing. Substantive criminal law of all civil states offers sufficient evidence for the correctness of the opinion expressed in this statement. The accomplice in, or instigator to, a crime is prosecuted even if the principal cannot be reached, possibly because he escaped abroad. The receiver is punished even if the thief has evaded punishment by committing suicide. These principles are to apply also to the proceedings in question. Just as the action of an accomplice or co-principal in a crime cannot be judged conclusively, unless at the same time the nature of the participation of a person who was a party in crime, but is exempted for personal reasons, has become clear, the admissibility of a judicial procedure in the case in question depends upon the fact, whether or not parties, who have escaped prosecution for reasons of politics or international law, have themselves realized one of the elements of the offense enumerated in the Statute. The 1st Nuremberg sentence, too, it is true in its proceedings precluded this in many cases - only effective way of defense by rejecting the notions to take evidence about these topics. But since by the opinion contained in the sentence this conception has not been prejudiced, there is still a judicial possibility left to pose this question so decisive for the trial anew, quite apart from its essential necessity.

In our opinion the conduct of the officials acting for the Soviet Union, as responsible according to international law, in August 1939 has indeed realized the elements of an offense within the compass of the London Statute. Only by their conduct the war has become possible and has been unleashed, and, to be precise, not only the isolated war against Poland, but the war 1939 to 1945 in general.

That the unleashing of the war against Poland would, in view of the existing group constellation and the existing guaranty pledges, necessarily lead to the general world war, is pronounced in the opinion of the 1st Nuremberg sentence in unmistakable terms: "The Tribunal is satisfied that the war started by Germany against Poland on 1 September 1939 was obviously a war of aggression, which inevitably would not but

expand to a war embracing the whole world, and which had as a consequence the commission of innumerable crimes against the laws and usages of war as well as against humanity. "In particular, the statements made above leave not the slightest doubt about the fact that the responsible officials acting for the Soviet Union have by concluding the secret agreement with the German Reich, realized, both as principals in, and as accessories to, the crimes the elements of an offense as outlined in the London Statute, or Art. II, subsection 1a of Control Council Law No. 10. The fact that the invasion originated from the Germans, does not in the least affect the responsibility of the Soviet Union, as far as the elements of the crime are concerned, because her contribution to the realization of the crime is to be found in the very conclusion of the secret pact which immediately preceded the war. The chain of causation is unbroken in this regard. The agreement of the Soviet Union was the condition sine qua non of the war of aggression. It must, likewise, be considered a proven fact that the officials acting for the Soviet Union acted with intent in concluding the secret pact. They realized that the protection of the German rear which they had granted made the attack possible, and concluded the pact just on account of that fact. The dismemberment of Poland was even, as a matter of fact, the only result intended by that step. The collusion between both the partners in that pact constitutes therefore the elements of joint planning, or conspiracy, according to the Statute.

Whether or not an individual responsible person, or a state, that realizes the elements of a crime according to the London Statute, or to the Control Council law, may, by committing the same action, be held accountable also as an accessory, has not been clearly established by the prejudicial findings of the Nuremberg sentence. As a matter of precaution it should be pointed out that the liability of the Soviet Union for the outbreak of the war would not be affected by not considering her, or the officials acting on her behalf, as direct principals. According to the London Statute and Article II, subsection 2 of Control Council Law No. 10 any person is deemed to have committed a crime, if he was a principal, or was an accessory to the commission of such a crime or ordered or abetted the same or was connected with plans or enterprises involving its commission. There is no doubt that most of the modalities of participation quoted therein are present. Above all, there is no denying the fact that the Soviet Union - even if she should not have caused the war of aggression against Poland - abetted it intentionally as an accessory.

It must be deemed an established fact ^{that} the responsible officials acting for the Soviet Union have realized the elements of crime as outlined above both with regard to its objective characteristics and to their mental intents.

418
70

APPLICATION BY DEFENSE COUNSEL ASCHENAUER

The fact that, according to the findings of the 1st Nuremberg sentence, the aggression originated from the German Reich, does in no way affect the presence of those characteristics of a crime. It is a recognized principle in every civilized state that the liability with regard to criminal law is a personal one, and a so-called "compensation of guilt" (Culpa-kompensation) does not apply. Whoever is connected with the commission of a crime is liable in the proportion of his own individual guilt, without regard to the guilt or even culpableness of the other participants. The findings of the 1st Nuremberg trial that Germany was an aggressor and thus guilty to have caused the war, is no obstacle for ascertaining here the facts and evaluating them in the trial. The fact that the aggression originated from one state, does not preclude the possibility to investigate further that aggression which had been made possible and unleashed by the conduct of another state in violation of the rules of international law.

7.

Though it is true that the officials of the state that shares the guilt may, as exempted according to the Statute, not be prosecuted, their conduct, in as far as it realizes the elements of a crime, may and must be utilized for arriving at some definite conclusions which are most relevant for this trial. It will be up to this Tribunal to examine the question, in how far a possible precedent of the 1st Nuremberg trial, to the effect that the question of guiltiness of the Soviet Union could not be gone into because of her equal rights as co-victor and partner in the new international penal code, still stands. For, in the last resort, it is the task of this trial to contribute to the finding of the truth. This task becomes illusory if the past actions of a partner are to be regarded as unimpeachable, of a partner at that who proves his quality as an outsider to the community of nations with ever increasing clearness.

VI.

In the civil law systems of nearly all the civilized states it is a recognized principle that under certain conditions even the personal qualities and circumstances of the partners in an agreement may be accepted as a tacit, generally implied basis of the agreement. This applies - in order to refer, at first, only to civil law - especially to agreements which are dealing with terms of time or relationships of trust. In agreements of this kind

the personal circumstances of the partner of the agreement is of a decisive importance. Now, if a partner maliciously conceals qualities which would, after an objective evaluation of all the circumstances, render him unfit for the partnership, entitling the other partner to abstain from concluding the intended agreement, or else if he even tricks the other partner positively into believing that those qualities are absent, such an agreement is, according to the prevalent conception, to be considered void.

The consequence that the participation in an agreement of a partner who is personally lacking in the qualification for the conclusion of such agreements has the effect of destroying the agreement, of making it void, lends itself no doubt to a translation into the usages of international law (for which there exist some parallels in the law of international covenants). If, e.g., a permanently neutralized state, say, Switzerland were to join an alliance between two other states, the act of joining the alliance would, since Switzerland lacks the necessary ability of action, be subject to a defect which would destroy its legal validity so as to be unable to accomplish any legal effects. This was the reason why Switzerland, when she in 1920, joined the Geneva League declared on 13 February 1920 that she would not be a party to the mutual obligation to military assistance incumbent on all League members. Only by that declaration the joining of the League of Nations by Switzerland became permissible.

My task now is to draw a parallel to the case in question. It is, of course, impossible to deny the general ability of action of the Soviet Union with reference to the fact that the officials acting on her behalf themselves had, at that time, become guilty of some definite offenses as outlined in the London Statute. On the other hand, there is an obstacle, originating from the qualities of the persons involved (ex persona), for the participation of the Soviet Union in such international agreements purporting the regulation of the punishment of perpetrators of crimes against peace. This conclusion is arrived at by the following considerations; the moral meaning of such agreements would be turned into its reverse, if states were able to participate in their conclusion, which have, through their officials, committed or ordered the commission of the very same crimes. The legal validity of such an agreement would suffer a severe blow in the face of the world public opinion, from which it could never recover. And finally, the other, loyal partners of such an agreement would by compromising with the outsider, necessarily lose their own reputation as the guardians of international lawfulness.

APPLICATION BY DEFENSE COUNSEL ASCHENAUER

The effect of such legal obstacles originating in personal qualities does doubtlessly not lend itself to be judged by a generally accepted yardstick.

Certain agreements of vital importance, (e.g. alliances or pacts in which the personal loyalty of the partner is not so essential, would, therefore, justify the adoption of a generous standard. Quite differently from that, however, are such agreements to be judged, in which loyalty, from the point of view of international law, is one of the basic conditions for the success or failure of the pact. This particularly applies to agreements claiming to represent a contribution to a new, purified, progressive international law, that is in a particular measure to agreements purporting, as the London Statute and Control Council law No. 10 do, the punishment of war crimes. It would be wrong to overlook that the very fact that according to these pacts the victors are passing judgment over the vanquished, constitutes a severe moral handicap for the pacts. Agreements of that kind are from the outset subject to a particular criticism, and that not only in the eyes of the vanquished nations. This criticism would yield to general approval, to a unanimous opinion necessitatis, only in the case that only those partners were participating in the agreement about the punishment who have no share in the guilt. In the reverse case, and if states, which were a party to the crime, are admitted to the assembly of the legislators for the only reason that the war has gone in their favour, judgment is passed by the conscience publique.

In order to avoid a misunderstanding which might arise, it is necessary to emphasize in this connection that the responsibility of the German war criminals with regard to substantive criminal law is in no way affected by the accessory or secondary guiltiness of the officials acting for the Soviet Union. Yet, the application of the agreement relating to the punishment is deprived of any material basis, if the conclusion suffers of a deficiency of the above mentioned kind. Questions of procedure, not questions of material responsibility are under discussion.

We have filed the motion that it may be found that the London agreement with its implementation regulations be declared ineffective for this trial. The London agreement is incapable of producing a new "positive international law". In this connection the fact may be noted that this incapability is based not on the ideal goal of general international agreements for the punishment, but exclusively on the fact that the agreement has been concluded under participation of a concretely incriminated partner.

APPLICATION BY DEFENSE COUNSEL ASCHENAUER

VII.

We set forth this objection in this Case, since the relation of the judge to the law as laid down in a characteristic manner in American law opens the way for it. It seems natural to take the right of the American judge to examination, as regards the constitutionality of statutory law, as a parallel, the more so, since the unwritten rules on the right of the judge to examination are valid for all American judges, and consequently also for the Military Tribunal constituted by virtue of Ordinance No. 7.

The London Statute, the Control Council Law No. 10, and the implementation rules based on them pretend to be building-stones for the new International Law and more than once the sentence appeared in the opinion of the first Nuremberg verdict that all that was formulated by the London Statute as a treaty forming a basis for the conviction especially of the German war criminals, was in its sense nothing but a law of general validity, a rule of the International Law. If, however, this is the case, this law must be subject to the examination on the part of the judge who is entitled to its application, as is every law with regard to its constitutionality. If we adopt the American conception of law, there is no reason for treating an agreement pertaining to International Law in a different way than national, internal law. On the contrary; in the field of national legislation there are generally - already because of the homogeneity of the legislative authorities - more guarantees that the individual laws are in conformity with the sense and the framework of the constitution than in International Law, where the body of legislators is more or less a motley crew, more or less appointed by hazard - you have to think only of collective treaties like the one in question. Rules of International Law are also subject to the right of the judge to examination.

Therefore it will be necessary that every sentence of the International Law be examined by the Tribunal as to its concordance with the generally recognized basic rules of International Law. These basic principles, whose existence, although it is difficult to ascertain and define them in the individual cases to-day, is absolutely uncontested today at a time at which especially the International Law falls back upon axioms which are superordinate to law but based on "conscience publique," take here mutatis mutandis the place of national constitutional law.

APPLICATION BY DEFENSE COUNSEL ASCHENAUER

The general basic rules of the law applicable to treaties also belong to the basic principles of International Law. The rules on the validity or invalidity of treaties, although their interpretation may be disputed in individual cases, are the more general, more comprehensive and older ones as compared with the system of the London treaty; just as a treaty based on International Law must be considered as being invalid if it restricts f.i. the sovereignty of a State in an immoral way, just because the respective prescriptions of the treaty are contrary to the superordinate and generally valid rules of sovereignty, agreements based on International Law which were signed ad hoc and show a deficiency recognized by the general legal principles of International Law are likewise to be considered as being null and void.

Therefore the American Military Tribunal is not exempted from the obligation to examine the material validity of the London treaty and the rules issued for its carrying out, especially since the Military Tribunal No. II has, in my opinion, also adopted this conception in its statements in the verdict against ALTSTOETTER and others. The examination "of the constitutionality" is replaced here by the obligation to the London treaty, issued on a vitiated basis, with respect to its compatibility with the superordinate general rules concerning the validity of agreements based on International Law.

If, as a result of such an examination, the Tribunal finds that a deficiency of this kind exists in the aforementioned treaties, this will be a peremptory objection to the continuation of the proceedings. It must be left to the Tribunal to let this procedural objection take effect on the trial.

(signature) Rudolf ASCHENAUER

418
(81)

Application Aschenauer

CERTIFICATE OF TRANSLATION

13 December 1947

We, Mary Flack Perry, 20136, Adolph Lusthaus, B 398010,
Ludwig Heymann, 35096, Robert Hoffmann, 20162
hereby certify that we are duly appointed translators
for the German and English languages and that the
above is a true and correct translation of the
Application Aschenauer.

Mary Flack Perry
20136

Robert Hoffmann
20162

Adolph Lusthaus
B 398010

Ludwig Heymann
35096

And "

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Against

Kranich and others

FILED 5 May 48 28
Secretary General
for Military Tribunals,
Nuremberg, Germany

Case Number 6

Tribunal No. VI

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Rudolf Dix, counsel for Schmitz
one of the above-named defendants, having requested this Tribunal
that Dr. Guenther Lammert, whose address is
Palace of Justice, be entered and approved
on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Guenther Lammert be,
and he hereby is, approved as assistant attorney for said
Schmitz to represent him with respect to the
charges pending against him under the indictment filed herein.

Dated:

4 May 1948

Quinn T. Shand
Presiding Judge

PROSECUTION NOTIFIED

DEFENSE NOTIFIED
5 May 48 67

419
(2)

MILITARY TRIBUNALS

UNITED STATES OF AMERICA

Against

KRAUCH, and others

Nuernberg, Germany

Case No. 6

Military Tribunal, VI

APPLICATION FOR APPROVAL OF
ASSISTANT DEFENSE COUNSEL

Comes now Dr. Rudolf DIX and states to the Tribunal that
he is attorney for SCHMITZ one of the de-
fendants and speaker of Defense Counsel
in the matter of United States of America vs. _____

KRAUCH, et al. That it is necessary that he have an assistant
counsel in this matter.

THEREFORE, Dr. DIX makes application to the Tri-
bunal for the approval of Dr. G. LUMMERT as his assistant counsel
to assist him with respect to the charges pending against KRAUCH et al.
in the above-captioned indictment.

Dated: April, 28, 1948

By order of Dr. DIX

Mueller
(Dr. Rudolf MUELLER)

Rechtsanwalt
Dr. Alfred Seidl

München 23
Gedonstraße 2
Telefonnummer 31958

430 ✓
Nürnberg, den 5. Mai 1948. ①
Gr.

Z.Z. in der ...
Nürnberg, Maximilianstr. 34

Herrn

Richter S h a k e , 21.

FILED 6 May 1948
AS

Secretary General
for the ...
Nürnberg, Germany

Betr.: Zurueckziehung von Duerrfeld-Dokumenten.

Ich habe heute Vormittag (5.5.1948) in offener Sitzung
die nachfolgenden drei Duerrfeld-Dokumente zurueckgezogen:

Dok.Nr. 878 Exh. 317 Due.Dok.Bch.IX Seite 42
(Affidavit Josef Schuldmann)

Dok.Nr. 1075 Exh. 210 Due.Dok.Bch.IX Seite 1
(Affidavit Gerson Waksmann)

Dok.Nr. 1073 Exh. 189 Due.Dok.Bch.VIII Seite 29
(Affidavit Henryk Loewenbraun)

Ich waere dankbar, wenn die Originale dieser Dokumente mir
wieder ausgehaendigt werden koennten, da die Affianten um
Rueckgabe ihrer eidesstattlichen Erklaerungen bitten.

Fuer das Archiv koennte eventl. ein Fotostat dieser Dokumente
zurueckbleiben.

A. Seidl

Dr. Alfred Seidl
Rechtsanwalt

30
45 30.4.
Secretary General

Granted - subject to
photostat copies of doc-
uments being left in
Archives. Under H. Thase
Springer

6 May 1948

2198

Dr. Alfred Seidl

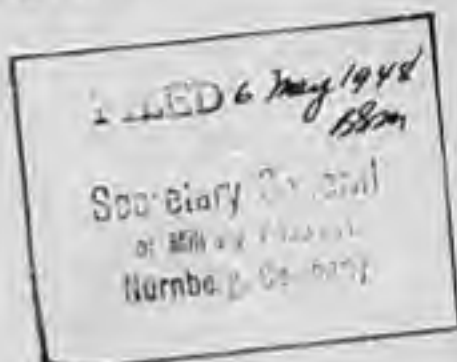
Attorney

Nurnberg 5 May 1948

To

Judge S h a k e

Re: Withdrawal of Duerrfeld Documents



This morning (5 May 1948) I withdrew in open session the following three Duerrfeld documents:

Doc. No. 276 Exh. 217, Doc. Book IX, page 42
(Affidavit Josef Schuldmann)

Doc. No. 1075 Exh. 210 Doc. Book IX, page 1
(Affidavit Geraton Wakemann)

Doc. No. 1073, Exh. 189 Doc. Book VIII, page 29
(Affidavit Henryk Loewenbraun)

I should be grateful if the originals of these documents could be returned to me since the affiants have requested their affidavits be given back to them.

A photostat of these documents could possibly remain in the archives.

(s) Dr. Alfred Seidl
Attorney

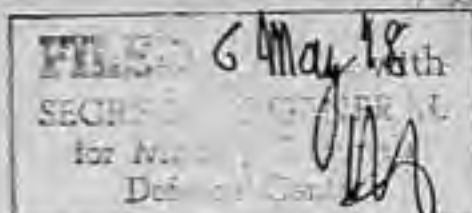
STANDARD FORM NO. 100

Northern, Germany

Case 6 Tribunal VI

UNITED STATES OF AMERICA

Against
Krauch et al.



Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunal:

Fr. Silcher

von Enierien

I, _____

attorney for _____

_____, hereby request that following person
(Name of Defendant)

be summoned by the Tribunal to give evidence in the Defendant's behalf:

Name of Person Desired as Witness:

Hermann Walter

Occupation and Last Known Location:

Auditor, Wiesbaden-Siebrich, Strasse der Republik 9

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts;
Authenticity of the documents of basic information

These facts are relevant to the Defense for the following reasons:
Relevancy of documents concerned

4 May 1948

(Date)

/s./ Silcher

Signature of Defendant's Counsel

Decision of Tribunal

DEFENSE NOTIFIED

Denied

Ernst G. Sharte

Presiding Judge

11 May 1948

2200

VEREINIGTE STAATEN VON AMERIKA

gegen

KRAUCH u.a.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Dr. Silcher, Verteidiger fuer von Krieger

beantrage hiermit, dass die
(Name d. Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in
Sachen des Angeklagten vorgeladen werde:

Hermann Walter

Beruf und letztbekannter Wohnort:

Wirtschaftsprüfer, Wiesbaden-Biebrich
Strasse der Republik 9

Weitere Angaben die zur Auffindung des benannten Zeugen
dienen koennen:

Die oben benannte Person weiss ueber die folgenden Tat-
sachen Bescheid:

Richtigkeit der Dokumente der Basic Information

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer
die Verteidigung: Beweiswert der Dokumente

4. Mai 1948

(Datum)

Silcher

Unterschrift des Verteidig.

Beschluss des Gerichtshofs

Vorsitzender Richter

MILITARY TRIBUNALS

Munich, Germany

Case 6 Tribunal VI

UNITED STATES OF AMERICA

Against
Krauch et al.

Defendant's Application for Subpoena for Witness

TO: The Secretary General, Military Tribunals:

I, Fr. Silcher attorney for von Knieriem

_____, hereby request that following person
(Name of Defendant)

be subpoenaed by the Tribunal to give evidence in the Defendant's behalf:

Name of Person Desired as Witness:

Walter R o e t t g e r

Occupation and Last Known Location:

Merchant, Leverkusen - Bayer plant

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts;
Authenticity of the documents of basic information.

These facts are relevant to the Defense for the following reasons:
Relevancy of documents concerned.

4 May 1948

(Date)

/s./ Silcher

Signature of Defendant's Counsel

Decision of Tribunal

DEFENSE NOTIFIED

Denied

11 May 1948

Presiding Judge

2202

Emil P. Stahl

422
FILED 6 May 48 with
SECRETARY GENERAL
of Military Tribunals
Defense Counsel

①

MILITÄRGERICHTSHOF
Nürnberg, Deutschland

VEREINIGTE STAATEN VON AMERIKA

gegen

KRAUCH u.a.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Fr. Silcher, Verteidiger fuer von Krauchen

beantrage hiermit, dass die
(Name d. Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in
Sachen des Angeklagten vorgeladen werde:

Walter Röttger

Beruf und letzter bekannter Wohnort:

Kaufmann, Leverkusen-Meyerwerk

Weitere Angaben die zur Auffindung des benannten Zeugen
dienen können:

Die oben benannte Person weiss ueber die folgenden Tat-
sachen Bescheid:

Richtigkeit der Dokumente der Basic Information

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer
die Verteidigung: Beweiswert der Dokumente

4. Mai 1948

(Datum)

Silcher
Unterschrift des Verteidig.

Beschluss des Gerichtshofs

Vorsitzender Richter

MILITARY TRIBUNAL

Nuremberg, Germany

Case 6 Tribunal VI

UNITED STATES OF AMERICA

Against

Krauch et al.

Defendant's Application for Subpoena for Witness

TO: The Secretary General, Military Tribunal:

I, Fr. Silcher attorney for von Knieriem

_____, hereby request that following person
(Name of Defendant)

be subpoenaed by the Tribunal to give evidence in the Defendant's behalf:

Name of Person Desired as Witness:

Erich Piwowarczyk

Occupation and Last Known Location:

Political economist, Hasburg-Bergedorf, Wachablaiche 14

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:
Authenticity of the documents of basic information

These facts are relevant to the defense for the following reasons:
Relevancy of documents concerned

4 May 1948

(Date)

/s./ Silcher

Signature of Defendant's Counsel

Decision of Tribunal

DEFENSE NOTIFIED

Presiding Judge.

11 May 1948 2204

FILED May 48 with
SECRETARY GENERAL
for Military Tribunal
Defense Center

MILITÄRGERICHTSHOF
Nürnberg, Deutschland

VEREINIGTE STAATEN VON AMERIKA

gegen

KRAUCH u.a.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Fr. Silcher, Verteidiger fuer von Krieger

beantrage hiermit, dass die
(Name d. Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in
Sachen des Angeklagten vorgeladen werde:

Erich Piwowarsky

Beruf und letztbekannter Wohnort:

Volkswirt, Hamburg-Bergedorf, Nachschieße 14

Weitere Angaben die zur Auffindung des benannten Zeugen
dienen koennen:

Die oben benannte Person weiss ueber die folgenden Tat-
sachen Bescheid: Richtigkeit der Dokumente den Basis

Information

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer
die Verteidigung: Beweiswert der Dokumente

4. Mai 1948

(Datum)

Silcher
Unterschrift des Verteidig.

Beschluss des Gerichtshofs

Vorsitzender Richter

MILITARY TRIBUNALS

Munich, Germany

Case 6 Tribunal VI

UNITED STATES OF AMERICA

Against
Krauch et al.

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunals:

I, Fr. Silcher attorney for von Kriesen

_____, hereby request that following person
(Name of Defendant)

be summoned by the Tribunal to give evidence in the Defendant's behalf:

Name of Person Desired as Witness:

Karl Lehmann

Occupation and last known location:

Technician, Leverkusen - Bayer plant

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts;
Authenticity of the documents of basic information

These facts are relevant to the defense for the following reasons:
Relevancy of documents concerned

4 May 1948

(Date)

/s./ Silcher

Signature of Defendant's Counsel

Decision of Tribunal

Denied

Kenneth G. Chase

Presiding Judge

2206

DEFENSE NOTIFIED

11 May 1948

434
FILED 6 May 18 1948
SEC. 1
for M. C. B. A. L.
C. S. C. A.
①

MILITÄRGERICHTSHOF
Munernberg, Deutschland

VEREINIGTE STAATEN VON AMERIKA

gegen

K R A U C H u.s.

Antrag eines Angeklagten zur Zeugenvorladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Fr. Silcher, Verteidiger fuer von Krierien

beantrage hiermit, dass die
(Name d. Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in
Sachen des Angeklagten vorgeladen werde:

Karl Lehmann

Beruf und letztbekannter Wohnort:

Techniker, Leverkusen-Bayerwerk

Weitere Angaben die zur Auffindung des benannten Zeugen
dienen koennen:

Die oben benannte Person weiss ueber die folgenden Tatsa-
chen Bescheid:

Richtigkeit der Dokumente der Basic Information

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer
die Verteidigung: Beweiswert der Dokumente

4. Mai 1948

(Datum)

Silcher

Unterschrift des Verteidig.

Beschluss des Gerichtshofs

Vorsitzender Richter

MILITARY TRIBUNAL

Nürnberg, Germany

Case 6 Tribunal VI

UNITED STATES OF AMERICA

Against

Krauch et al.

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunal:

I, Fr. Silcher attorney for von Kniering

_____, hereby request that following person
(Name of Defendant)

be summoned by the Tribunal to give evidence in the Defendant's behalf:

Name of Person Desired as Witness:

August Feuser

Occupation and Last Known Location:

Technician, Leverkusen - Bayer plant

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts;
Authenticity of the documents of basic information

These facts are relevant to the defense for the following reasons:
Relevancy of documents concerned

4 May 1948

(Date)

/s./ Silcher

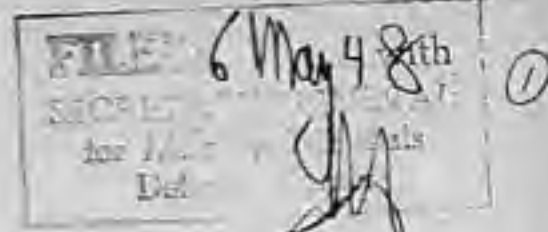
Signature of Defendant's Counsel

Division of Tribunal

DEFENSE NOTIFIED

Presiding Judge.

11 May 1948 208



MILITÄRGERICHTSHOF
Münchberg, Deutschland

VEREINIGTE STAATEN VON AMERIKA

gegen

KRAUCH u.a.

Antrag eines Angeklagten zur Zeugenvorladung

An den Generalsekretär des Militärgerichtshofes:

Ich, Fr. Silcher, Verteidiger fuer von Krieger

....., beantrage hiermit, dass die

(Name d. Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in
Sachen des Angeklagten vorgeladen werde:

August Perner

Beruf und letztbekannter Wohnort:

Techniker, Leverkusen-Bayerwerk

Weitere Angaben die zur Auffindung des benannten Zeugen
dienen koennen:

Die oben benannte Person weiss ueber die folgenden Tatsa-
chen Bescheid:

Richtigkeit der Dokumente der Basis Information

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer
die Verteidigung: Beweiswert der Dokumente

4. Mai 1948

(Datum)

Silcher

Unterschrift des Verteidig.

Beschluss des Gerichtshofs

Vorsitzender Richter

MILITARY TRIBUNALS

Hamburg, Germany

Case 6 Tribunal VI

UNITED STATES OF AMERICA

Against

Krauch et al.

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunals:

I, Fr. Silcher attorney for v. Krieren

_____, hereby request that following person
(Name of Defendant)

be summoned by the Tribunal to give evidence in the Defendant's behalf:

Name of Person desired as Witness:

Georg B e l s

Occupation and last known location:

Merchant, Leverkusen - Bayer plant

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts;
Authenticity of the documents of basic information

These facts are relevant to the defense for the following reasons:
Relevancy of documents concerned

4 May 1948

(Date)

/s./ Silcher

Signature of Defendant's Counsel

Decision of Tribunal

DEFENSE NOTIFIED

Denied

Emile G. Chase

11 May 1948

Proving J. G.

426
FILED 6 May 48 With
SECRETARY GENERAL
for Military Tribunals
Defense Counsel

MILITÄRGERICHTSHOF
Muenberg, Deutschland

V. VEREINIGTE STAATEN VON AMERIKA

gegen

KRAUCH H.2.

Antrag eines Angeklagten zur Zeugenverladung

An den Generalsekretär des Militärgerichtshofes:

Herrn Pr. Silcher, Verteidiger fuer V. Enierien

-----, beantrage hiermit, dass die

(Name d. Angeklagten)

nachfolgend benannte Person vom Gerichtshof zur Aussage in
Sachen des Angeklagten vorgeladen werde:

Georg B e l z

Beruf und letztbekannter Wohnort:

Kaufmann, Leverkusen - Bayerwerk

Weitere Angaben die zur Auffindung des benannten Zeugen
dienen koennen: -----

Die oben benannte Person weiss ueber die folgenden Tats-
achen Bescheid: -----

Richtigkeit der Dokumente der Basis Information

Diese Tatsachen sind aus folgenden Gruenden erheblich fuer
die Verteidigung: Beweiswert der Dokumente

4. Mai 1948

(Datum)

Silcher

Unterschrift des Verteidig.

Beschluss des Gerichtshofs

Vorsitzender Richter

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Against

Krauch and others

FILED 6 May 48 Wil.
Secretary General
Nuremberg, Germany
Case No. 6

Mil. Tribunal VI

ORDER APPOINTING DEFENSE COUNSEL

Hans Kuehne, one of the above-named defendants, having requested this Tribunal that Dr. Herbert Nath whose address is Rothenburgerstr. 50, be entered and approved on the records of Military Tribunals as his lawful attorney,

IT IS ORDERED that the said Dr. Herbert Nath be, and he hereby is, approved as attorney for said

Hans Kuehne to represent him with respect to the charges pending against him under the indictment filed herein.

Dated: 5 May 1948

Wendell G. Thace
Presiding Judge

Form MT No-1

PROSECUTION NOTIFIED

DEFENSE NOTIFIED
6 May 48 - 29

Dr. Herbert NATH

Attorney-at-Law

427
(2)
Nurnberg 4 May 1948
Palace of Justice

To the

Secretary General, Military Tribunal

Palace of Justice

Nurnberg/Germany.

Subject: Case No.6 against Krauch et al.

I herewith inform you that after having been approved
counsel for defendant Dr. Hans Kuehne I will employ
the hitherto assistant Frau Dr. Erna Kroen and Fraulein
Marianne Seifert as my secretary.

/s./ Dr. Nath

Attorney-at-Law

552 2 copies

Dr. Herbert MATH
Rechtsanwalt

Nuernberg, den 4. Mai 1948.
Justizpalast

2
427
③

An den

Herrn Generalsekretär, Militärgerichtshof,
Justizpalast,
Nuernberg/Deutschland.

Betr. Fall Nr. 6 gegen KRAUCH u.a.

Hierdurch teile ich mit, dass ich nach meiner Bestellung als Verteidiger
des Angeklagten Dr. Hans KUEHN die bisherigen Assistentin Frau Dr. Erna KROHN
und Fräulein Marianne Seifert als Sekretärin übernehme.

J. Math
Rechtsanwalt.

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Against

KRAUCH, and others

Nuernberg, Germany

Case No. VI

Mil. Trib. No. VI

427
(4)

APPLICATION FOR APPROVAL AS DEFENSE COUNSEL

Comes now Dr. Herbert NATH and states to the Tribunal that Dr. Hans KUEHNLE, one of the abovesaid defendants, has requested that he represent him in the matter of the United States of America vs. KRAUCH, et. al.

THEREFORE, Dr. Herbert NATH makes application to the Tribunal for his approval as attorney for Dr. Hans KUEHNLE to represent him with respect to the charges pending against him under the above-named indictment.

Dated: 5 Nov. 1948

Dr. Nath

Nurnberg, Germany

427
(5)

UNITED STATES OF AMERICA

Against

CASE NO. 6

Military Tribunal VI

Krauch and others

Defendants

REQUEST FOR COUNSEL TO BE ENTERED OF RECORD

To the Secretary General, Military Tribunals

Palace of Justice, Nurnberg, Germany

I, Dr. Hans Kuelne, of Lindau/Bodensee, a
defendant in the above styled cause, respectfully request that the name of
Dr. Herbert Nath (in place of Dr. Guenther Lammert) is presently Nurnberg
Rothenburgerstr. 50, and who is a person qualified under existing
regulations to conduct cases before the courts of my country, be entered and
approved on the records of Military Tribunals as my lawful attorney to
represent me as a defendant on the charges pending against me under the
indictment filed in the above-styled cause.

Dated at _____ this _____ day of May AD 1948.

s/ Dr. Hans Kuelne X

427
⑥

MILITÄRGERICHTSHOF
MÜNCHEN, DEUTSCHLAND

Die vereinigten Staaten von Amerika
gegen
KRAUCH u.s.s.

Fall Nr. VI
Militärgerichtshof
Fr. VI

ERSUCHEN EINES ANGEKLAGTEN UM VERTEIDIGER
(in die Akten aufnehmen)

An den Generalsekretär, Militärgerichtshof,
Justizpalast,
München, Deutschland

Ich, Dr. Hans KUCHNE, aus Lindau/Bodensee,
ein Angeklagter im obenbezeichneten Fall, ersuche ergebenst,
dass der Name des Rechtsanwalts Dr. Herbert MATH (anstelle von Dr. Guenther LIEBERT)
dessen Anschrift z.Zt. München, Rothenburgerstrasse 50 ist,
und der aufgrund bestehender Vorschriften berechtigt und be-
fahigt ist, Faelle vor den Gerichten meines Landes zu ver-
treten, in die Akten der Militärgerichtshof aufgenommen wer-
de und dass er als mein ordnungsgemäss berufener Anwalt be-
stellt werde, um mich als Angeklagten gegen die Anschuldigung
der Anklage in der obenvermerkten Sache zu verteidigen.

An 4. (vierten) Tag des Monats Mai AD 1948

Dr. Hans Kuchne
(Dr. Hans Kuchne)

MT - Fern 1 - G

! Nev 46 - 500

MILITARY TRIBUNALS
UNITED STATES OF AMERICA

Against

Krauch and others

FILED 6 May 48 ⁸⁸ with
Secretary General
for Military Tribunals
Nuremberg, Germany
Defense Center

Case Number 6

Tribunal No. VI

(1)

ORDER APPOINTING ASSISTANT DEFENSE COUNSEL

Dr. Otto Helte, counsel for Hoerlein
one of the above-named defendants, having requested this Tribunal
that Dr. Ernst Braune, whose address is
Fuerth, Gebhardtstr. 3, be entered and approved
on the records of the Military Tribunals as his assistant,

IT IS ORDERED that the said Dr. Ernst Braune be,
and he hereby is, approved as assistant attorney for said

Hoerlein to represent him with respect to the
charges pending against him under the indictment filed herein.

Dated:

5 May 1948

Quinn T. Glase

Presiding Judge

PROSECUTION NOTIFIED

DEFENSE NOTIFIED

6 May 48 - 88

DR. EDICH BERNDT
RECHTSANWALT UND NOTAR
(18) FRANKFURT A.M.
KRIEGSGASSE 11
TELEFON 41787

(196) NURNBERG
JUSTIZPLATZ DUAHANE 28a
ANGEBORNE KONTAKTNUMMERN
85/HEATLEIN

428
(2)
Nurnberg, 26. April 1948

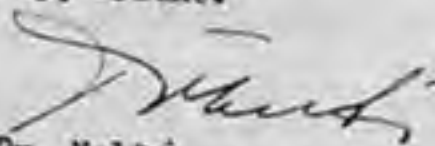
To Defense Center,
Major Schaefer,
Justice Palace


N u r n b e r g

This is to certify, that we the undersigned defense counsels
want to change our assistants.

I Dr. N e l t e want Dr. BRAUNE as my assistant instad of
Mr. Heinrich Hendus.

I Dr. B e r n d t want Mr. HENDUS as my assistant instead
of Dr. Braune.


Dr. Nelte
Defense Counsel


Dr. E. Berndt
Defense Counsel

428
(3)

MILITARY TRIBUNALS

UNITED STATES OF AMERICA

Against

Krauch, and others

Worms, Germany

Case No. VI


Military Tribunal

APPLICATION FOR APPROVAL OF
ASSISTANT DEFENSE COUNSEL

Come now Dr. Nelte and states to the Tribunal that
he is attorney for Prof. Hoerlein one of the de-
fendants in the matter of United States of America vs. Krauch
et al. That it is necessary that he have an assistant
counsel in this matter.

THEREFORE, Dr. Nelte makes application to the Tri-
bunal for the approval of Dr. Braune as his assistant counsel
to assist him with respect to the charges pending against Prof.
Hoerlein in the above-captioned indictment.

Dated: 26 April 1948.


Dr. Nelte
Defense Counsel

MILITARY TRIBUNALS

Nuremberg, Germany

FILED 2 May 48 with
SECRETARY GENERAL
 for Military Tribunals
 Defense Center

March Tribunal III
 UNITED STATES OF AMERICA

Against
Krauch u.s.

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunals:

I, Dr. Karl Hoffmann attorney for Dr. Otto Ambros

_____, hereby request that following person
 (Name of Defendant)

Be summoned by the Tribunal to give evidence in the Defendant's behalf:

Name of Person desired as Witness:

Dr. Hans Munch

Occupation and Last Known Location:

Physician in Bernbeuren near Schongau / Upper-Bavaria

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts;
Dr. Hans Munch was Physician in the Auschwitz concentrations-camp
from 1943 until - the collapse in 1945 . He was acquitted not
guilty in the Prochen Auschwitz Trial in 1948 in Warsaw

These facts are relevant to the defense for the following reasons:

The General conditions in Auschwitz camps included Monowitz
and the common knowledge.

8.5.1948

(Date)

Signature of Defendant's Counsel

Decision of Tribunal

Presiding Judge.

8 May 1948

2221

10 May 48

MILITARY TRIBUNALS

Munberg, Germany

Case 6 Tribunal VI

UNITED STATES OF AMERICA

Against

Krauch & others

FILED 9 May 48
with
SECRETARY GENERAL
for Military Tribunals
Defense Counsel

Defendant's Application for Summons for Witness

TO: The Secretary General, Military Tribunal:

I, Dr. Erich Berndt attorney for Dr. ter Meer

and W. B. Mann hereby request that follow-
(Name of Defendant)

all
ing person be summoned by the Tribunal to give evidence in the defend-
ant's behalf:

Name of Person desired as Witness:

Dr. Hellmuth Vits,

Occupation and last known location:

Sanatorium Dr. Dapper, Bad Kissingen

Other information that may aid in locating the Person named:

The person above named has knowledge of the following facts:

Economic regulations in the 3. Reich

These facts are relevant to the defense for the following reasons:

for the case of all defendants.

7 May 1948
(Date)

Christian H. Tuerok
(Christian H. Tuerok)

Signature of Defendant's Counsel
Defense Counsel assistant

Decision of Tribunal

Presiding Judge.

DEFENSE NOTIFIED

17 May 48

13 May 1948

2222

471

UNITED STATES MILITARY TRIBUNAL VI
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY
10 MAY 1948

THE UNITED STATES OF AMERICA

- vs. -

CARL KRAUCH, et al.,

Defendants.

FILED 10 May 1948

Case No. 8

General
Councils

ORDER

The following order is issued superseding and correcting the order of 26 April 1948, filed 5 May 1948:

On consideration of the motion of the defendant Gattineau, dated 17 December 1947, which moves that the Tribunal may rule that Control Council Law No. 10 does not constitute a basis for this trial; motion dated 7 January 1948, in which it is requested to acquit the defendant Gattineau and release him from his detention before the trial will be continued; and motion of 5 April 1948, which moves (1) that the arguments of the IMT judgment are not binding for the American Military Tribunal; (2) "in this connection" that the counts of the indictment on conspiracy and aggressive war be dropped; (3) these proceedings be immediately suspended,

IT IS ORDERED that each and all of the above motions are denied.

DEFENSE NOTIFIED

10 May 1948

PROSECUTION NOTIFIED

Richard E. Shinn
Presiding Judge

James M. Mower
Judge

Paul M. Schubert
Judge

Charles F. M. Mower
Alternate Judge

Dated this 10th day of May 1948

MICROCOPY

892

ROLL

109

